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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. QUINN).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 21, 2003.

I hereby appoint the Honorable JACK QUINN to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Gregory J. Jackson, Senior Pastor, Mt. Olive Baptist Church, Hackensack, New Jersey, offered the following prayer:

Fix our steps, O Lord, that we stagger not at the uneven motions of the world. Steady our fainting hearts and trembling hands as we journey ever forward into an unknown future.

As we gather in these hallowed halls, halls hallowed by the sacrifices of slaves and slave owners, halls hallowed by men and women who gave their lives for our freedom, halls hallowed by the blood, sweat, and tears of those who built our great Republic, hear our prayer.

Today, we ask that You would keep our minds focused upon righteousness, keep our hearts in tune with Your spirit, keep our eyes open to the pain and suffering of Your people, not only in our Nation but around the world.

We thank You, dear God, for the opportunity that is ours. Help us to use this wonderful privilege that You have given unto us to serve the poor, to encourage the depressed, and to make America everything she claims to be.

In Your name we pray, Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Iowa (Mr. LATHAM) come forward and lead the House in the Pledge of Allegiance.

Mr. LATHAM led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that it will entertain 10 1-minute speeches per side.

The Chair now recognizes the gentleman from New Jersey (Mr. ROTHMAN) to begin 1-minutes.

RECOGNIZING GUEST CHAPLAIN, THE REVEREND GREGORY J. JACKSON, SENIOR PASTOR, MT. OLIVE BAPTIST CHURCH

(Mr. ROTHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTHMAN. Mr. Speaker, I have had the great privilege of representing the district that is the home to Reverend Gregory Jerome Jackson, the wonderful man who just gave the invocation.

Reverend Greg Jackson is a man of great ability, integrity, and compassion who has committed his life to helping others and in strengthening the bonds of family and community.

He started his life as the grandson of sharecroppers in South Carolina. He made his way at the age of 16, no doubt with divine guidance, to the promised land of New Jersey, where he went on to graduate from St. Peter's College and the Colgate Rochester Divinity School. He even served 2 years here as an intern to Congressman Cornelias Gallagher.

Whether it is in his role as pastor of the Mount Olive Baptist Church in Hackensack, New Jersey, whose membership has risen with 1,000 new members under his leadership since 1984, or as an executive board member of the Lott Carey Baptist Foreign Mission Convention, which seeks to prevent HIV–AIDS and provide comfort and counsel to those who have been affected by the disease in Africa and the Caribbean, or as a leader of countless other civic and community organizations, or as the loving husband of Barbara and father of Michael and Monique, Reverend Greg Jackson has used his unique gifts as a pastor and community leader to improve the lives of those around him.

Mr. Speaker, everyone who has ever met Greg Jackson knows that he is a true humanist, a man of great warmth, conviction, and character, who has literally improved the lives of tens of thousands of my constituents over his nearly 20-year career at Mt. Olive, and who has traveled the world saving lives and bringing his deep faith in service to millions more.

I am delighted and proud to be the Congressman for my dear friend, the honorable Reverend Gregory Jerome Jackson, and so proud, Mr. Speaker, that this institution saw fit to allow him to make the invocation this morning.

JOB CREATION THROUGH TAX RELIEF, A VICTORY FOR AMERICAN FAMILIES

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, we all know that our sluggish economy is in need of a shot in the arm. As I travel my district and talk with constituents in Kansas, I am hearing one constant theme: reduce the tax burden on working families.

They tell me that on their tight budgets, even an additional $100 per month would make a significant difference. I believe their request is reasonable. They understand what many in Washington never seem to comprehend: their hard-earned money belongs to them and not to us. They know how best to stretch every dollar to take care of their family.

Tax relief for American families has always been one of my top priorities, so the plan that the House passed comes as a breath of fresh air. Under the House plan, a typical family of four in Kansas would see their earlier tax bill reduced by over $1,100. That is almost $100 per month.

Best of all, our plan would create almost 1 million jobs next year, 8,000 of those jobs in Kansas. Job creation through tax relief, this truly is a victory for American families.

AMERICA NEEDS ANSWERS ON ADMINISTRATION'S USE OF DEFENSE MONEY

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, as the House debates defense authorization, it is fair for the American people to ask what is happening to their tax dollars going for defense. Over $1 trillion in Department of Defense accounts remains unreconciled. Audits have been suspended.

Worse, this administration led this Nation into a war based on the pretext that Iraq was an imminent threat, which it was not. The President described Iraq as an imminent threat. It was not. The Secretary of State presented pictures to the world which he offered as proof. But as of today, with the administration having total control over Iraq, nothing that has been said has been substantiated.

Where are the weapons of mass destruction? What was the basis for this war? How can we spend $400 billion for defense if we cannot defend the truth? How do we defend the truth if we do not demand answers from an administration which took this Nation into a war on a pretext?

HONORING EMS WEEK

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to honor the vital work of emergency medical service professionals. These highly trained specialists are able to respond at a moment's notice, knowing that a matter of seconds can mean the difference between life and death.

There are over 750,000 EMS providers throughout the United States providing invaluable community service daily. Today, with the ever-present threat of terrorism, their job is more needed than ever. They stand on the front lines, trained and ready to respond to possible chemical and biological attacks to give us the best chance of survival in the case of a tragedy.

This week, we recognize the dedicated work of paramedics and emergency medical technicians through Emergency Medical Services Week. I ask all of my colleagues to join me in saying thank you to these men and women who work day and night all through the year to save lives.

In conclusion, God bless our troops.

''FIRST OBSTRUCTION, NOW DESTRUCTION''

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, ''There is no more fragile construct than a stone wall. In any scandal, the shortest route to safety is always the truth.'' [144 Cong. Rec. H1333 (1998).

These are the most appropriate words of Majority Leader, TOM DELAY. And yet one full week after asking the Departments of Homeland Security and Justice to come clean about the reported attempts to divert Federal resources for purely political purposes in Texas, all we have is that very same fragile stone wall.

The administration obstruction has now turned into State document destruction. Borrowing a page from Enron's playbook, State destruction has been ordered of all notes, correspondence, photos, et cetera, related to the search for Texas legislators; and at the same time, the Department of Homeland Security indicates that it has ''no idea how long the investigation would take or when the tapes might be released.''

Never known as ''Timid Tom,'' it is time for the gentleman from Texas (Mr. DELAY) to join us in getting immediate disclosure of all related documents and end the stonewalling.

HELP SMALL BUSINESS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I am speaking on behalf of small businesses, owners and employees, in this time of economic downturn.

The key to President Bush's economic package is to provide jobs to Americans who desire to work. The plan will provide a great boost to small businesses, which create 70 percent of the jobs, or two out of every three jobs.

One of the most significant weaknesses in the present economy is the low level of business investment. The President's plan will triple write-offs for business equipment from $25,000 to $75,000, will reduce the cost of capital, and help these enterprises grow. There is a current phase-in schedule that will reduce the income tax paid by small businesses. This plan will speed these reductions up and make them immediately.

All of the components of the President's package put together are projected to return an average of over $2,000 to 23 million small business owners this year. The Council of Economic Advisors projects that the President's plan will create 10,000 new jobs in the second half of 2003, 890,000 jobs in 2004, and an increase of 1.4 million jobs in just 18 months. Private sector analyses reach similar conclusions.

The sooner Congress acts, the better it is for small businesses.

WATERGATE ALL OVER AGAIN?

(Mr. EDWARDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS. Mr. Speaker, destruction of evidence, obstruction of justice, withholding of secret taped conversations between government officials and possible wrongdoing, misuse of Federal law enforcement agencies for domestic political purposes.

It sounds like Watergate in 1974 and Richard Nixon, does it not? Yes, it does. But sadly, these government abuses have occurred in the last 10 days in our country. The silence of Republic leadership and the majority leader, the gentleman from Texas (Mr. DELAY), on these government abuses is deafening.

These are the facts: last week, the U.S. Department of Homeland Security had to admit it used Federal antiterrorism resources paid for by taxpayers to track down Texas State legislators, hardly a terrorist threat even on their worst days.

Fact number two: in a taped telephone conversation last week, the Texas Department of Public Safety apparently asked, unethically if not illegally, for the U.S. Homeland Security Agency to get involved in this political matter.

Fact number three: the U.S. Homeland Security Agency refuses to let the public know what was on those taped conversations. Today, we now find out there is destruction of evidence by the Texas Department of Public Safety.

The American people deserve answers.

KIDNEY SCREENING

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, in January, a beautiful young staffer in my office by the name of Monique Bradley Brown died from a deadly form of kidney disease. Monique was my legislative correspondent.

Some of the symptoms from the disease appear as normal health anomalies, such as higher blood pressure and lower back pain. Often patients like Monique and their families are taken by surprise when discovery of the ailment is made. Regular screenings are necessary to detect the disease before it is too late.

In Monique's memory, we are having a kidney screening for all House Members and staff. The screening is free. It will take place on Tuesday, May 27, from 9 to 5, in H C–5. The National Kidney Foundation of the Capitol area will conduct the screening, and the various tests will take no longer than a half hour.

For more information, Members and staff may contact my office. Act now before it is too late.

□ 1015

MISUSE OF FEDERAL AGENCIES

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, as I was saying at a press conference last week, not since Watergate and Richard Nixon 30 years ago have government agencies been used for domestic political purposes. And now, as in Watergate, we have the smoking gun.

Today's issue of the Fort Worth Star telegram, my hometown newspaper, reports that the Department of Public Service in Texas sent an e-mail to all its officers in the middle of last week ordering that all records of the contact with the State legislators and government agencies be destroyed.

I will read you what appeared in today's Star Telegram addressed to captains. The order said, ''Any notes, correspondence, photos that were obtained pursuant to the absconded House of Representatives members shall be destroyed immediately. No copies are to be kept.''

Now, we have asked for records on the Federal level. Since they have already been destroyed on the State level, we demand that those records on the Federal level be released now before they can be destroyed.

Remember Rosemary Woods and the 18 minute gap. Release the record today here in Washington so that we will not have what happened in Texas the last week.

RELEASE THE FCC ORDER

(Mr. LATHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATHAM. Mr. Speaker, it has come to my attention that today marks the third anniversary of the FCC's now-infamous press release announcing its decision on the local competition issue. In spite of the FCC's announcement, we still have not seen the text of the FCC's decision. This is a thorny issue, Mr. Speaker, one involving heartfelt disagreement. The only thing that both the incumbent local exchange carriers and competitive local exchange carriers agree on is the need for regulatory certainty.

This uncertainty is precisely the wrong prescription for the ailing telecom sector of our economy. The telecommunications sector has been extremely hard-hit over the course of the last few years, laying off thousands of employees and shrinking construction budgets. The FCC's decision has the promise for bringing some regulatory certainty to the sector upon which it can base investment and hiring decisions.

Instead of promptly releasing the text of the order, thereby hastening new investment and additional hiring, the FCC has delayed for 90 days. This delay has the effect of preventing any economic benefits that could result from the Commission's decision. Having worked so hard to pass jobs and growth packages that will get our economy back on track, this delay is simply unacceptable.

I hope the FCC will not delay the release of its order any longer. We need those jobs and investments in the telecom sector, and we need them soon.

AUSTIN COVER-UP

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, all is not well in the Republic.

Yesterday the Department of Homeland Security raised the terrorist alert level to orange. The threat of another terrorist attack on the United States has grown. That is why so many of us are wondering why the Department of Homeland Security took a time-out from the war on terror to help the Texas Department of Public Safety track down the private plane of State Representative Pete Laney.

Today we discover the shocking news that the Texas Department of Public Safety has destroyed all the documents, all records, all photos relating to the hot pursuit of Texas Democrats.

Mr. Speaker, we need answers to the basic questions. Who ordered the use of Federal law enforcement resources to hunt down the lawmakers in Texas? Was it politically motivated? Have we returned to the Nixon area of Federal executive power for political ends?

And now we must know why the Department of Public Safety destroyed all records. It might help in answering a lot of these questions.

Today I rise to ask the district attorney of Austin to look and investigate why the Department of Public Safety decided to move and destroy these records. It is criminal, and we need to investigate.

HONORING MIKE JENDRZEJCZYK

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, I rise to pay tribute to one of the great fighters for human rights and democracy in Asia, Mike Jendrzejczyk.

For 13 years as advocacy director, Mike, at the Asia Division of Human Rights Watch, fought for human rights in all corners of Asia, from China to Burma to Vietnam to Indonesia. His knowledge, insight, and information on these regions was invaluable to policymakers around the world and here in Washington.

Mike testified before the House Committee on International Relations and the Congressional Human Rights Caucus countless times, providing us with critical information on issues ranging from North Korean refugees to human rights abuses in Tibet to democracy in Hong Kong.

Mike's energy and enthusiasm were unwavering, and his ceaseless dedication was admired by all. Unfortunately, the human rights community lost this fighter too soon, and we need to continue his fight.

Mike, I will miss you. Mike, millions in Asia are now living in freedom from Taiwan to South Korea to the Philippines who owe you; and millions more depend on us to continue your work.

IS THERE A CONSPIRACY BETWEEN THE STATE OF TEXAS AND THE DEPARTMENT OF HOMELAND SECURITY?

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, Texans woke up to stories like this one in today's Houston Chronicle that reports on something that is just ''unbelievable.'' On Wednesday, May 14, one day before the Texas legislative Democrats started returning to Austin, the Texas Department of Public Safety, DPS, ordered all records and photos gathered in the search for them to be destroyed.

The order addressed to ''Captains'' states, ''Any notes, correspondence, photos, etc., that were obtained pursuant to the absconded House of Representatives members should be destroyed. No copies kept.''

Who originated this order, this destruction?

Yesterday, Secretary Ridge again refused to release a full transcript and tape of the discussions between our

DPS and the Department of Homeland Security.

What are they hiding? Why is a law enforcement agency in Texas destroying records and a Federal agency refusing to release them? Were there political efforts to involve Federal law enforcement for purely political and partisan reasons? What are these agencies trying to cover up?

It does not pass the smell test.

While we have new international terrorist threats, a new high alert yesterday, we were looking for Texas Democrats last week. Secretary Ridge and the Department of Homeland Security are needlessly suffering a credibility gap.

Mr. Speaker, if there is nothing incriminating or embarrassing on the tapes, then there is nothing to cover up. Release the tapes and all the records. Do not destroy them.

VIETNAM VETERANS MOVING WALL

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, today I rise to pay tribute to those who have paid the ultimate price for our freedom, our servicemen and women.

This Monday is Memorial Day, a day when America will recognize those who have served our country in war and peace. This weekend in our district I will visit the Moving Wall, a small replica of the sacred Vietnam Veterans Memorial. The Moving Wall is a half-sided replica of the Vietnam Veterans Memorial which is in Washington. It has been touring the country for nearly 20 years.

The Moving Wall allows people who cannot visit the breathtaking Vietnam Veterans Memorial a chance to experience this legendary landmark. The Moving Wall will be in Allen, Texas, open to the public 24 hours a day from May 24 to May 30 at Bethany Lakes Park. I encourage the people of north Texas to visit this excellent tribute to our veterans. God bless our servicemen and women. I salute you. May God bless America.

HONORING TAIWAN PRESIDENT CHEN

(Mr. SESSIONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SESSIONS. Mr. Speaker, I rise this morning to congratulate Taiwan President Chen on his third anniversary in office.

Taiwan and the United States have enjoyed a close relationship with each other for more than 50 years, both economically and politically. I hope that in the very near future we will increase trade opportunities with Taiwan by launching trade negotiations on a free trade agreement with Taiwan. America must let all countries know that we firmly stand behind the Taiwan Relations Act and that we believe that a peaceful solution is the only answer to the so-called Taiwan issue.

I also strongly support Taiwan's democratization at home and its campaign to join international organizations abroad. Taiwan is a strong ally of ours which stood shoulder to shoulder with the United States after 9/11. To Taiwan and President Chen I say, America appreciates your friendship and partnership.

MILITARY WASTE, FRAUD AND ABUSE

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, next week the Nation will celebrate Memorial Day. A fitting celebration of Memorial Day in this House would be to crack down on the waste, fraud, and abuse at the Pentagon so that we can better equip our troops and we can meet our obligations to our veterans.

At the run-up to the last war, the Pentagon was scrambling to find chemical and biological suits. But it turned out that another part of the Pentagon had put them up for sale for surplus on the Internet, usable suits, and were selling them for pennies on the dollar at the same time that we did not have enough to go around in the field.

But that is nothing new at the Pentagon. They have misplaced $1 trillion, T, trillion, not million, not billion, trillion dollars according to the GAO. They lost 56 airplanes, 32 tanks, 36 Javelin missile command launch units. They spent $20 billion trying to overhaul their accounting system, and then abandoned that effort.

That did not help one soldier in the field, did not help one veteran, did not help the Nation. Waste, fraud, and abuse by contractors and bureaucrats is not patriotic. Let us clean up the Pentagon. Let us do something in the bill today to make certain this no longer occurs.

READINESS AND RANGE PRESERVATION INITIATIVE HURTS THE ENVIRONMENT

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to speak out against the Readiness and Range Prevention Initiative proposed by the Department of Defense. This initiative would provide exemptions to the United States military from enforcing and abiding by the Marine Mammal Protection Act and the Endangered Species Act, two very important pieces of legislation that have for decades provided safeguards and protections to our environment.

Many of our bases are home to critical habits and endangered species, especially, for example, Camp Pendleton, which is very near my district, where there are currently 17 endangered species.

Mr. Speaker, this initiative is harmful, it is unnecessary, and it is an attack on our environment. Laws already exist that provide exemptions for the military for purposes of national security. The military just has not bothered to enact those. There is absolutely no need for the type of broad-based policy such as the Readiness and Range Prevention Initiative.

We were able to defeat this measure last year, and I am confident that we will do it again this year. There is no evidence that suggests that our military should be exempted from these laws.

DAMAGING THE AMERICAN INSTITUTION OF JUSTICE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is a time that we desire to honor those who have served us by committing the ultimate sacrifice, and I look forward to joining my communities on Monday and being reminded of the great service of our valiant troops throughout the years and months and days, weeks and minutes, for they are ever with us.

I rise this morning because sadly I believe that all we stand for in this House and in this Congress and in this Nation, democracy, freedom and respect for law, has certainly been damaged by the reckless, foolish and irresponsible destruction of documents that the Department of Public Safety in Texas has engaged in after tracking innocent civilian Texas legislators who happen to be Democratic and who happen to be respecting their democratic process.

□ 1030

It is interesting that the order said, ''Any notes, correspondence, photos, et cetera, that were obtained pursuant to the absconded House of Representatives members shall be destroyed immediately. No copies are to be kept. Any questions, please contact me,'' the message said. It is unusual for these matters to be destroyed. They cannot track down who gave the order. I would say track it to the Governor's house.

It is imperative the Congress begin an investigation immediately; that the Department of Justice investigate this and the U.S. Homeland Security Department. Our responsibilities are to the American people, to keep them safe, to provide them with a standard of law and order; and we are not to abuse our power. We must investigate now.

UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003

MOTION OFFERED BY MR. HYDE

Mr. HYDE. Mr. Speaker, pursuant to the unanimous consent agreement of yesterday, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. HYDE moves to take from the Speaker's table the bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes, with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments

Page 3, before line 1 insert:

TITLE V—INTERNATIONAL FINANCIAL INSTITUTIONS

Sec. 501. Modification of the Enhanced HIPC Initiative.

Sec. 502. Report on expansion of debt relief to non-HIPC countries.

Sec. 503. Authorization of appropriations.

Page 96, after line 14, insert:

TITLE V—INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is amended by adding at the end the following new section:

''SEC. 1625. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary of the Treasury should immediately commence efforts within the Paris Club of Official Creditors, the International Bank for Reconstruction and Development, the International Monetary Fund, and other appropriate multilateral development institutions to modify the Enhanced HIPC Initiative so that the amount of debt stock reduction approved for a country eligible for debt relief under the Enhanced HIPC Initiative shall be sufficient to reduce, for each of the first 3 years after the date of enactment of this section or the Decision Point, whichever is later—

''(A) the net present value of the outstanding public and publicly guaranteed debt of the country—

''(i) as of the decision point if the country has already reached its decision point, or

''(ii) as of the date of enactment of this Act, if the country has not reached its decision point,

to not more than 150 percent of the annual value of exports of the country for the year preceding the Decision Point; and

''(B) the annual payments due on such public and publicly guaranteed debt to not more than—

''(i) 10 percent or, in the case of a country suffering a public health crisis (as defined in subsection (e)), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources; or

''(ii) a percentage of the gross national product of the country, or another benchmark, that will yield a result substantially equivalent to that which would be achieved through application of subparagraph (A).

''(2) LIMITATION.—In financing the objectives of the Enhanced HIPC Initiative, an international financial institution shall give priority to using its own resources.

''(b) RELATION TO POVERTY AND THE ENVIRONMENT.—Debt cancellation under the modifications to the Enhanced HIPC Initiative described in subsection (a) should not be conditioned on any agreement by an impoverished country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

''(1) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

''(2) provides for increased cost recovery from poor people to finance basic public services such as education, health care, clean water, or sanitation;

''(3) reduces the country's minimum wage to a level of less than $2 per day or undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p–4p); or

''(4) promotes unsustainable extraction of resources or results in reduced budget support for environmental programs.

''(c) CONDITIONS.—A country shall not be eligible for cancellation of debt under modifications to the Enhanced HIPC Initiative described in subsection (a) if the government of the country—

''(1) has an excessive level of military expenditures;

''(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

''(3) is failing to cooperate on international narcotics control matters; or

''(4) engages in a consistent pattern of gross violations of internationally recognized human rights (including its military or other security forces).

''(d) PROGRAMS TO COMBAT HIV/AIDS AND POVERTY.—A country that is otherwise eligible to receive cancellation of debt under the modifications to the Enhanced HIPC Initiative described in subsection (a) may receive such cancellation only if the country has agreed—

''(1) to ensure that the financial benefits of debt cancellation are applied to programs to combat HIV/AIDS and poverty, in particular through concrete measures to improve basic services in health, education, nutrition, and other development priorities, and to redress environmental degradation;

''(2) to ensure that the financial benefits of debt cancellation are in addition to the government's total spending on poverty reduction for the previous year or the average total of such expenditures for the previous 3 years, whichever is greater;

''(3) to implement transparent and participatory policymaking and budget procedures, good governance, and effective anticorruption measures; and

''(4) to broaden public participation and popular understanding of the principles and goals of poverty reduction.

''(e) DEFINITIONS.—In this section:

''(1) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS.—The term 'country suffering a public health crisis' means a country in which the HIV/AIDS infection rate, as reported in the most recent epidemiological data for that country compiled by the Joint United Nations Program on HIV/AIDS, is at least 5 percent among women attending prenatal clinics or more than 20 percent among individuals in groups with high-risk behavior.

''(2) DECISION POINT.—The term 'Decision Point' means the date on which the executive boards of the International Bank for Reconstruction and Development and the International Monetary Fund review the debt sustainability analysis for a country and determine that the country is eligible for debt relief under the Enhanced HIPC Initiative.

''(3) ENHANCED HIPC INITIATIVE.—The term 'Enhanced HIPC Initiative' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.''.

SEC. 502. REPORT ON EXPANSION OF DEBT RELIEF TO NON-HIPC COUNTRIES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on—

(1) the options and costs associated with the expansion of debt relief provided by the Enhanced HIPC Initiative to include poor countries that were not eligible for inclusion in the Enhanced HIPC Initiative;

(2) options for burden-sharing among donor countries and multilateral institutions of costs associated with the expansion of debt relief; and

(3) options, in addition to debt relief, to ensure debt sustainability in poor countries, particularly in cases when the poor country has suffered an external economic shock or a natural disaster.

(b) SPECIFIC OPTIONS TO BE CONSIDERED.—Among the options for the expansion of debt relief provided by the Enhanced HIPC Initiative, consideration should be given to making eligible for that relief poor countries for which outstanding public and publicly guaranteed debt requires annual payments in excess of 10 percent or, in the case of a country suffering a public health crisis (as defined in section 1625(e) of the Financial Institutions Act, as added by section 501 of this Act), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources.

(c) ENHANCED HIPC INITIATIVE DEFINED.—In this section, the term ''Enhanced HIPC Initiative'' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2004 and each fiscal year thereafter to carry out section 1625 of the International Financial Institutions Act, as added by section 501 of this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, May 20, 2003, the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 1298, the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Rarely does Congress act with decisiveness for the benefit of so many suffering in the developing world. But this is precisely what we are doing today in enacting H.R. 1298, the United States

Leadership Against HIV/AIDS Act of 2003.

With each passing day, HIV/AIDS claims more and more innocent victims. Not since the bubonic plague swept across the world in the last millennium has our world confronted such a horrible, unspeakable curse as we are now witnessing with the growing HIV/AIDS pandemic. The number of dead or dying is grotesquely high: 25 million already dead worldwide, and the number growing at a rate of 8,500 every day, with the prospects of entire villages populated only by orphans because the adults are dead or dying from AIDS.

The bill we are considering today is the very same bill which passed the House May 1 by a vote of 375 to 41, with the exception of a minor amendment regarding debt forgiveness in poor countries. The Hyde-Lantos bill authorizes the President's 5-year $15 billion emergency plan for treatment and prevention of AIDS in those countries already facing crisis.

The legislation creates a more responsive, coordinated, and effective approach among the various agencies of the U.S. Government involved in the global fight against HIV/AIDS. During consideration of the Hyde-Lantos measure last week, the Senate added an amendment encouraging the administration to work with other countries to extend additional debt relief to poor countries most affected by HIV/AIDS. I support this amendment, and it is my hope that this legislation may be presented for the President's signature prior to his participation in the G–8 summit in France in June.

The Hyde-Lantos legislation promotes an approach that provides for antiretroviral therapy for more than 2 million people living with HIV. It encourages a strategy that extends palliative care to people living with AIDS. It supports efforts to find vaccines for HIV/AIDS and malaria. It emphasizes the need to keep families together, with particular focus on the needs of children and young people with HIV. The bill endorses prevention programs that stress sexual abstinence and monogamy as the first line of defense against the spread of this disease. And it contributes to multilateral initiatives that leverage the funds of other donor nations.

Many organizations and individuals from diverse backgrounds participated in the crafting of this legislation, including members of the Congregation of the Franciscan Sisters in Wheaton, Illinois; missionaries in Uganda; AIDS treatment access groups in downtown Chicago; and caregivers who administer assistance and counseling to people living with AIDS. The Committee on International Relations heard from African ambassadors, church leaders, and citizens from around the world who are calling for action. Your support for this legislation today answers their call for action. But our work now is only beginning in this fight to save lives and rescue families and villages from this scourge.

Mr. Speaker, today I urge all of my colleagues to support H.R. 1298, the Hyde-Lantos bill. The HIV/AIDS pandemic is more than a humanitarian crisis. Increasingly, it is a threat to the security of the developed world. Left unchecked, this plague will further rip the fabric of developing societies, pushing fragile governments and economies to the point of collapse.

America does not have to take on the HIV/AIDS crisis alone. But as is often the case, American leadership, political or financial, is necessary if our friends around the world are to bear their fair share of the burden. This is what the President's proposal does. It sets a pattern of American leadership that others, we believe, will follow.

Today, we have an opportunity to do something of significant and lasting importance, an obligation to do something reflecting our commitment to human solidarity, and the privilege of doing something truly compassionate. The AIDS virus is a mortal challenge to our civilization. I know today my colleagues will be animated by the compassion and vision that has always defined what it means to be an American and answer this call for help.

Before I close, I want to thank, in particular, the distinguished gentleman from California (Mr. LANTOS), the ranking Democrat member. It is absolutely clear we would not be gathered in this Chamber about to celebrate the passage of such monumental legislation without the leadership, courage, and vision of the gentleman from California. From the start, he has been a leader in the fight against AIDS, tenacious in fighting for the Global Fund, and for increased funding for bilateral efforts.

Yet during the past 3 years we have been working on this issue, he has always defended and represented his position with grace and eloquence. I would also like to recognize the essential and excellent contributions made to this legislation by his staff, in particular Peter Yeo and Pearl Alice Marsh. My own staff, Walker Roberts and Peter Smith, are also to be commended for their fine work and contributions to this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of H.R. 1298.

Mr. Speaker, the House of Representatives would not be considering the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act today if it were not for the personal commitment of the gentleman from Illinois (Mr. HYDE) to seeing this initiative signed into law. We all owe him a profound debt of gratitude, and I am delighted to pay public tribute to him for his principled and effective leadership.

Mr. Speaker, as we near final congressional approval of H.R. 1298, let us recall the humanitarian impetus for this historic initiative. Since this virus first mutated into its deadly shape, 25 million people have died of HIV/AIDS worldwide. This number is greater than the populations of New York City, Los Angeles, Chicago, Houston, Philadelphia, Phoenix, San Diego, Dallas, San Antonio, Detroit, San Jose, and Indianapolis combined. It is more than nine times the total number of casualties we have suffered in all armed conflicts in our Nation's history combined. It is a number beyond comprehension.

This number, Mr. Speaker, represents much more than a statistic. It represents real people, with real families, real stories, and real futures. As we consider H.R. 1298, we remember these victims and pass this legislation in their name.

We remember Simon, a former seminary student and a student leader in South Africa who struggled against apartheid, but died at the young age of 31 years, hardly fulfilling his potential as a national leader.

We remember Srey, a poor illiterate Cambodian woman who had been infected by her husband. And this cruel killer showed no mercy, prolonging her agony long enough to see it claim the precious life of her baby son before consuming her.

We remember Jean David, a Haitian man whose brother sold his small house and three cows to pay for medicine. These desperate lifesaving measures proved futile. Jean David died, leaving his family impoverished, with no way to care for his son, who was also infected with HIV/AIDS.

But, Mr. Speaker, this legislation is also about life. It will ensure that there are fewer deaths due to HIV/AIDS, fewer parents grieving over the loss of their child to HIV/AIDS, and fewer children growing up without parents who have succumbed to this disease.

Our legislative work to combat HIV/AIDS worldwide does not end with today's vote. Today, I call on President Bush to do everything in his power to obtain the $3 billion in HIV/AIDS funding this year, and I call on our Committee on Appropriations to fund that amount as well.

And Congress must continue to play a strong oversight role to ensure that our Nation's HIV/AIDS programs are run effectively and efficiently. We have created a strong HIV/AIDS coordinator at the Department of State, and we expect that this coordinator will work hand in glove with the Agency for International Development.

We have required that 33 percent of HIV/AIDS prevention funds in this legislation be used for abstinence-until-marriage programs, and we expect that abstinence programs funded as part of larger multisectoral grants will count towards this 33 percent requirement.

We have provided a conscience clause to organizations implementing these programs, and we fully expect that all NGOs will only provide medically accurate and complete information about HIV/AIDS prevention methods.

Mr. Speaker, today we vote to create a top-flight bilateral HIV/AIDS program and to support the advancement of the Global Fund. I urge all of my colleagues across the aisle to once again support passage of this legislation in the name of all those who have already fallen victim to HIV/AIDS and in the hope that millions of lives will be saved by our actions.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New Jersey (Mr. SMITH).

□ 1045

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in very strong support of this legislation, H.R. 1298, a truly historic piece of legislation authored by the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS). The compassion, tenacity and vision of the gentleman from Illinois (Mr. HYDE) has always been inspirational to so many of us, but on this piece of legislation Chairman HYDE's leadership was extraordinary. In astoniship speed, Mr. HYDE has now shepherded through the House and Senate a bill that will soon be signed by President Bush that is absolutely landmark in that it will help save the lives of millions and mitigate suffering in the lives of many more. Many particularly in sub-Saharan Africa, who are suffering from this disease, will be aided by this bill.

The number of deaths due to the AIDS epidemic is horrifying. It is estimated that 25 million people have died from AIDS thus far, and another 30 million are infected, and approximately 8,500 people die every day. Thankfully, we are acting swiftly; and the sooner this legislation and the appropriations that will follow are passed, we can mitigate some of this disaster. Because if we do not, there will be as many as 80 million deaths by 2010, and 40 million AIDS orphans can be expected.

Mr. Speaker, statistics about specific countries and age groups are also staggering. In Botswana, for example, nearly 40 percent of the adult population is infected. In Africa, there are 3 million children under the age of 15 living with HIV–AIDS.

Mr. Speaker, today in sub-Saharan Africa it is estimated that only 50,000 out of 4 million people in need of drug treatment are receiving it. This legislation puts us on track to get that very important drug treatment to these individuals.

This is an outstanding piece of legislation. Again, on behalf of all of us, we thank the gentleman from Illinois (Mr. HYDE) for his tremendous leadership, courage and compassion.

Mr. LANTOS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Northern California (Ms. LEE), my friend and colleague, who has shown years of leadership in bringing us to this point.

Ms. LEE. Mr. Speaker, I want to thank the gentleman from California (Mr. LANTOS), the ranking member, for those very kind remarks and also for his leadership. I want to thank the gentleman from Illinois (Chairman HYDE) for his leadership and commitment; and, to them together, I think this is the best in terms of how we work together and can work together in a bipartisan fashion. I thank the gentleman from Iowa (Mr. LEACH) for his years of dedication and years of hard work as we negotiated this bill.

Also to our staff, we would not be here today without them. I would like express my appreciation to Christos Tsentas in my office and to Pearl Marsh and to Peter Yeo and to my former staff, Michael Riggs, and all of the minority and majority staff for their commitment and technical expertise but, most of all, their clear understanding of the reason why we are doing this today.

This bill we have before us, as we have all said, has been shaped for the most part by a very long and bipartisan and bicameral compromise that has largely focused on the needs of those most affected by the AIDS, tuberculosis and malaria pandemics.

I applaud the other body for adding an amendment to strengthen the Enhanced Heavily Indebted Poor Countries Initiative, but I am disappointed that they did not vote to include other amendments that were put forth by our colleagues, particularly the amendment offered by my colleague from California, to balance our HIV and AIDS prevention spending among all viable approaches by striking the 33 percent designation for abstinence-until-marriage programs. The balanced approach, the ABC approach, is what is working in Uganda; and I hope as we move forward we understand that strategy very clearly.

Although I do believe that the debt relief provisions should be strengthened to say instruct the Secretary of Treasury to enter into negotiations to expand HIPC, rather than just advising him to do so, I think it is critical for us to address the issue of debt cancellation whenever we discuss the global AIDS pandemic, particularly in the Africa context.

I am delighted that this amendment is in. It did not go far enough, but it is a beginning.

The passage, of course, of this legislation is historic. But, again, we should not be too quick I do not think to pat ourselves on the back, because we must urge our President and our colleagues on the Committee on Appropriations to fully fund the $3 billion authorization beginning this year. AIDS will not wait, and neither can we.

As part of our commitment to fight AIDS, we must also work to ensure that other donor nations contribute to the global effort. We would urge the President, along with Secretary Powell and Secretary Thompson to encourage the international community to provide a substantial and consistent contribution to fight TB, AIDS and malaria on a consistent basis beginning next week in France at the G8 summit that they will attend.

I would just like to close by saying, as we pass this very historic bill today, we cannot forget our own domestic AIDS crisis. Just under a million people are estimated to be infected in the United States, and a quarter of those do not even know they are infected. The Centers for Disease Control estimates that 40,000 are newly infected each year in our own country. We must attack this disease on a domestic and international basis. This is a major step in the right direction.

I thank the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) for their leadership and for ensuring that the people of Africa now have some hope as a result of the United States policy.

Mr. HYDE. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) for their work on this important issue.

The bill that we will approve today emphasizes the model of Uganda. Uganda has helped people avoid exposure and infection to HIV/AIDS. They have saved lives. The world can take a lesson from Uganda, including the United States.

Uganda understood as a developing country working to build its way back from tyranny and exploitation it had to act to save itself. It had little money, no expertise, few resources. But Uganda had faith. Uganda had faith in God and in its people to save themselves.

President Museveni asked his people to change their behavior in order to stay alive. That is not a message that is dependent on cultural interpretation. It does not require technical or scientific understanding. It is a message that gave hope and health to the general population of Uganda; and it has worked and continues to work in Uganda, as well as Zambia, Jamaica and Namibia.

The bill that is before us is landmark legislation because it sets a course for what works in saving people's lives from the certain death of HIV/AIDS. It emphasizes treatment through antiretroviral therapy, care by assisting families and children affected by HIV/AIDS, and prevention by emphasizing education to help people avoid exposure.

This legislation makes a very important distinction between preventive activities and intervention activities. The bill details that are included regarding prevention and other activities are intended to help people avoid exposure by reducing the number of sexual

partners and, if they are adolescents, delaying sexual activity until they are married. This is a realistic and effective public health strategy to help end the grip of HIV/AIDS. This legislation does not eliminate the utilization of interventions that are intended to reduce the risk of infection, especially for specific high-risk populations. The distinction between prevention and intervention is important.

I am a physician who has treated AIDS patients dying from, in many instances, an avoidable disease. We need to emphasize risk avoidance but continue to provide options for risk reduction. This approach, called ABC, is a sound approach meant for the general population to save as many lives as possible. It is a comprehensive approach to AIDS prevention that recognizes that people are different and a range of behavioral options for AIDS prevention needs to be presented.

In 2 days I will be traveling to Uganda to see for myself the Uganda experience. One of the things I want to investigate in Uganda is if it is staying true to the ABC approach. Since the mid-1990s, there has been less of an emphasis on sexual behavior and more on medical solutions. In recent years, there has been a small but disturbing trend towards riskier sexual behavior, and for the first time in a decade there has been a slight increase in the national infection rate in Uganda.

The Uganda ABC model of the earlier period is the one that seems to have worked the best and is the one that has the most to teach the rest of the world. That is why I am so pleased to support this bill. I know it provides real solutions and real hope to people in Africa, and that is why I am pleased to go to Uganda in 2 days to see this firsthand myself.

Mr. Speaker, I commend the ranking member and the chairman for their work, and credit goes to President Bush for initiating this process.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a leader on this issue.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) for one of the most unique and collaborative efforts, which simply rings out to the entire world about saving lives. I thank them for their vision on this important legislation.

Mr. Speaker, might I remind this House about 6 years ago, in 1997, then President Clinton designated a presidential mission. Three Members of Congress were able to participate in that mission, and we visited the nations of Uganda, Zambia and South Africa. During that time, we heard stories about individuals who admitted that they were HIV positive and being stoned to death.

It was the first time that a 13-year-old boy came to my attention in South Africa, and he began to be a national spokesperson to challenge the world on the question of care, treatment and prevention.

I am gratified that today the United States Congress, through the journey of many of us who saw the works of Uganda, began to understand that we must balance a cultural understanding with the need for prevention, care and treatment.

This bill is an outstanding bill for many reasons. It deals with these issues, but in addition, it deals with malaria and tuberculosis. This is a devastating pandemic. The numbers are staggering in terms of whom we have lost. We expect to see by 2005 40 million African children who have lost their parents to HIV/AIDS. It is gratifying to see that the ABC plan in Uganda has worked, particularly that there are less sexually active teenagers. But we must be realistic. I am glad this legislation deals with prevention and the use of condoms.

It is important to remember that AIDS is an epidemic in the United States, but it is also an important reality that there is a provision that helps to diminish or be able to support the idea of debt relief because these countries will not be able to get the various drugs necessary if we do not have the debt relief that is necessary as well.

Finally, Mr. Speaker, let me say I had an amendment that encourages, if you will, seeks to have the corporate community contribute to the global fund. This is crucial because more monies are needed.

I conclude by saying simply that we must do the same thing for the extreme famine in Africa, particularly in Ethiopia and that region. I would ask my colleagues as they support this wonderful legislation, that as we move toward appropriation, we support this legislation in appropriation, and we also support dollars that will help bring down the famine in Africa. I ask my colleagues to vote for this legislation.

□ 1100

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, we all strongly support this bill as a needed and overdue national commitment. AIDS is a global crisis which threatens the security of every government in every nation, even including the United States. It has destroyed societies, and it will destabilize democratic governments. According to UNAIDS, nearly 22 million people have lost their lives and over 36 million people today are living with HIV and AIDS. Fewer than 2 percent of them have access to life-prolonging therapies or basic treatment. That is the problem. And we are the only ones with the resources to really do something about it. The number of new infections of HIV is estimated at 15,000 people a day, and it is growing.

In Africa, which has 70 percent of the AIDS cases, 22 million people are living with this disease. In some countries, 20 percent or more are infected; and in a number of countries that recently visited in Africa, 34 percent of women of childbearing age are infected. That means that an estimated 600,000 African children become infected with AIDS every single year as a result of mother-to-child transmission either at birth or through breast feeding. The deaths of parents with HIV/AIDS will result in 40 million orphans this decade alone. They have nowhere to go. They do not inherit anything. The boys go in to gangs, the girls too often into sexual slavery or some form of servitude.

This bill, while it is a terribly important step, raises concerns about the intent to limit our flexibility to do everything we can to combat this problem. Abstinence, for example, while a prevention strategy, is not a public health program. It is an education approach based on moral or religious belief. We do not argue with that moral or religious belief, but this is an urgent matter. We have to do everything possible that will work. The fact is that in the developing world, too many women do not have the option of abstinence. That is the reality they have to deal with. Their rights are almost nonexistent. Many of them do not have the option to say no to sex from men, control the number of partners or protect themselves from sexual assault. That is true, that is reality, and that is what we have to deal with. Even the restrictive provision on prostitution limits our effectiveness. We have got to get access to women who are endangered, whatever it takes to save their lives.

I urge the administration to use all the flexibility and common sense they can. We are talking about saving lives here. We are talking about a horrible reality. But we have got to roll up our sleeves and do what is necessary, do what is the moral imperative for this Nation to do today. All of us will strongly support the bill.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 3 minutes to my dear friend and good neighbor, the gentlewoman from California (Ms. MILLENDER-MCDONALD), who has been a leader on this issue ever since we began this project.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I want to take this time to thank Chairman HYDE and ranking member LANTOS for being the driving force behind such an important bill, H.R. 1298, United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003. I would also like to commend the President for his leadership on this issue. I hope that other countries and their leaders follow his leadership on HIV/AIDS. This bill embodies true leadership on the part of the United States, dramatically increasing the U.S. participation in addressing the pandemic that is ravaging whole regions and millions of people. This unprecedented bill acknowledges

our moral responsibility to address the pandemic that has already resulted in the deaths of millions. I am so proud to be a part of this legislation, this distinguished body and this country.

H.R. 1298 contains a provision of mine included in the committee markup which my good friend, the gentlewoman from California (Mrs. NAPOLITANO), offered for me as a member of that committee. While much attention is being paid to preventing mother-to-child transmission, we must turn to addressing the needs and rights of the child to grow up with parents so that millions more are not orphaned before he or she can even walk.

My language gives priority preference for Federal funds to groups that are currently administering a privately funded program to prevent mother-to-child transmission and provide lifelong care and treatment in family-centered programs so that children do not grow up as orphans. This would benefit programs by letting them hit the ground running, to treat immediately as many people as possible. My language benefits programs such as the MTCT-Plus Initiative, which is administered by Columbia University's Mailman School of Public Health. The MTCT-Plus Initiative is supported by United Nations Secretary-General Kofi Annan and the First Ladies of Africa and has $50 million in funding from several private philanthropic foundations, including the Bill and Melinda Gates, the William and Flora Hewlett, the Robert Wood Johnson and other foundations.

Family survival programs like the MTCT-Plus Initiative are critical to address the issues of millions of children orphaned by HIV/AIDS on a scale unrivaled in history. In sub-Saharan Africa, family and societal structures are breaking down because of the deaths of a generation of parents. The number of children in the developing world who have been orphaned by the AIDS pandemic will nearly double from 13.4 million to 25.4 million by the end of this decade. Today, 5.5 million children in Africa have lost both parents, and in most cases at least one of them, to AIDS; and that number will rise to 7.9 million by 2010.

Again let me thank the chairman and the ranking member for their leadership.

Older women are also profoundly affected since the responsibility for caring for the supporting grandchildren orphaned by AIDS infected parents often falls on the shoulders of the elderly.

Thank you again, Chairman HYDE and Ranking Member LANTOS, for agreeing to include my amendment, and thank you too, to Congresswoman NAPOLITANO for offering my amendment during the Committee markup.

Mr. Speaker, I also offered an amendment on the floor which was accepted that concerns Section 314 which calls for a pilot program of assistance for children and families affected by HIV/AIDS. My amendment requires that pilot program to ensure the importance of inheritance rights of women, particularly women in African countries, are included in this program. The relationship of the denial of inheritance rights for women, increased HIV/AIDS infection in women and the resulting exponential growth in the numbers of young widows, orphaned girls, and grandmothers becoming heads of households needs to be further studied and documented. My language does just that.

This is necessary because a majority of those infected by HIV/AIDs in African are women of all classes, ethnic groups, and levels of education. Women with AIDS are condemned to an early death when their homes, lands, and other property are taken. They not only lose assets they could use for medical care, but also the shelter they need to endure this disease.

The failure to ensure equal property and inheritance rights upon separation or divorce discourages women from leaving violent marriages. HIV risk is especially high for women in situations of domestic violence, which often involves coercive sex, diminished ability to negotiate with partners for safer sex, and impeded women from seeking health information and treatment.

In some places, widows are forced to undergo sexual practices such as ''wife inheritance'' or ritual ''cleansing'' in order to keep their property. ''Wife inheritance'' occurs when a male relative of the dead husband takes over the widow as a wife, often in a polygamous environment. ''Cleansing'' usually involves sex with a social outcast who is paid by the dead husband's family, supposedly to cleanse the woman of her dead husband's evil spirits. In both of these rituals, safe sex is seldom practiced and sex is often forced. Such women are at increased risk of contracting and spreading HIV.

For example, there are areas of Kenya where the wife inheritance and cleansing practices have created an alarmingly high rate of HIV/AIDS infection. Fully 22 percent of the population between ages 15 and 49 in the Nyanza province are infected, and 35 percent of ante-natal women in one district within that province are infected. Girls and young women in the Nyanza province are infected at six times the rate of their male counterparts.

Finally, in the last Congress Representative Eva Clayton and I introduced H. Con. Res. 421, recognizing the importance of inheritance rights of women in Africa, and its relationship to the HIV/AIDS pandemic. I have also chaired two briefings on this issue. Our resolution was very strongly supported by this body. It had 90 original cosponsors with bipartisan support. My amendment today to the underlying bill includes the crux of H. Con. Res. 421, which I have reintroduced as H. Con. Res. 158.

Thank you so much for putting H.R. 1298 on a fast track to present to the President for his signature. I look forward to the next step of actually ensuring that H.R. 1298 receives funds in the appropriations process giving this authorizing bill the teeth it needs to prevent infection and provide real relief to those suffering under the HIV/AIDS pandemic abroad.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Ohio (Mr. BROWN), a distinguished member of the Committee on International Relations. He was the leader on the tuberculosis issue in this legislation, which is a significant and important and integral part of this bill.

Mr. BROWN of Ohio. I thank my friend from California for yielding me this time.

Mr. Speaker, I am pleased we are considering final passage of this global AIDS legislation. I want to recognize the hard work of Chairman HYDE and his good faith and strong efforts to make this legislation as good as it has become and to especially thank my friend, the gentleman from California (Mr. LANTOS), the ranking Democrat on the committee, and the minority and majority staff of the Committee on International Relations and the terrific work that they did. I also want to recognize the gentlewoman from California (Ms. LEE), who has been working on this since her first election and her former and current staff, Michael Riggs and Christos Tsentas.

Last year, almost 3 million people died of AIDS, 2 million died of tuberculosis, and 1 million died of malaria. In this bill, we are responding to this pandemic on a scale that can absolutely make a difference in saving hundreds of thousands, perhaps millions, of lives. This bill recognizes that the intersection of AIDS and tuberculosis is like the perfect storm, causing the most devastating epidemic since the bubonic plague of the 14th century where 20 million people died. Already, 25 million around the world have died of AIDS, 42 million people are infected with HIV/AIDS, and 1,100 people every day in India die of tuberculosis. This bill begins to recognize that the Global Fund to Fight AIDS, TB and Malaria represents the best tool that we have to fight three epidemics that kill 6 million people each year.

This is good legislation, but it falls a bit short in a couple of areas. One of those is it limits flexibility so that local governments, local communities, local health departments, local nongovernment organizations are not able to be as flexible and I think as effective as they could be. I hope we can address that in the years ahead. It also fails to take as comprehensive an international approach as many of us hoped it would by underfunding, unfortunately, the Global Fund to Fight AIDS, TB and Malaria. That fund is more flexible, believes in local control, has standards to make sure that the dollars are well spent, and has more accountability than any other kind of aid program. I am hoping we can address that in the future.

Every day we fail to act, Mr. Speaker, thousands die. I am here today to say I am proud we have done something. We have done much.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

In closing, I would like to express my appreciation to Chairman HYDE's staff, Walker Roberts and Peter Smith; the staff of the gentlewoman from California (Ms. LEE), Christos Tsentas; and to my staff, Pearl Alice Marsh, Peter Yeo, David Abramowitz, and Bob King who have done an extraordinary job. I again want to express my profound personal thanks to the chairman of the

committee, the gentleman from Illinois (Mr. HYDE), without whose leadership we would not be able to pass this legislation.

Ms. WATERS. Mr. Speaker, I rise to support H.R. 1298, the U.S. Leadership Against HIV/AIDS, Tuberculosis and Malaria Act. This bipartisan bill would provide $15 billion over the next 5 years to combat HIV/AIDS, tuberculosis and malaria. The text of this bill now includes the language of H.R. 1298 as passed by the House, along with a Senate amendment to recommend that the Secretary of the Treasury negotiate deeper debt relief for poor countries, especially those suffering from public health crises. I have been working on the issues of global HIV/AIDS and debt relief for over 4 years, and I know how interrelated they are.

Debt relief is desperately needed by poor countries trying to combat the HIV/AIDS epidemic. These countries cannot afford to provide health care to their people or educate their people about HIV/AIDS prevention because of their debts. At Least 18 heavily indebted poor countries are spending more money on debt payments than they are on health care. Debt relief will allow these countries to invest their resources in health, education, poverty reduction and HIV/AIDS treatment and prevention programs.

Zambia provides an excellent illustration of why deeper debt relief is necessary. Zambia is a deeply impoverished country with a per capita income of only $330 per year. Almost 20 percent of the adult population is infected with the AIDS virus, and 650,000 children have been orphaned by AIDS. The HIV/AIDS epidemic has also ravaged the educational system by causing a shortage of trained teachers. Yet, Zambia still spends more than twice as much money on debt payments as it does on health care.

Debt relief is critical to worldwide HIV/AIDS treatment and prevention efforts. I urge all of my colleagues to support this bill and enable poor countries to use their resources to address this devastating epidemic.

Mr. EVERETT. Mr. Speaker, I rise in reluctant opposition to this motion to concur in the Senate Amendment to H.R. 1298, the U.S. Leadership Against HIV/AIDS, Tuberculosis & Malaria Act of 2003. Although the intentions of this legislation are well placed to help stem the tide of these highly infectious diseases, I am deeply concerned about the management of these scarce Federal dollars by the UN Global Fund to Fight AIDS, Tuberculosis and Malaria. Past practices of this organization leave me with little hope that these monies will be spent wisely to curtail these deadly diseases.

Notwithstanding my opposition to this bill, I hope that USAID will work closely with the Global Fund to ensure that these funds are managed properly. In the event products are needed to be procured to prevent the spread of these diseases, I strongly encourage that the U.S. Buy America Act be employed. The expenditure of Federal, taxpayer dollars should support American companies whenever possible.

Mr. OXLEY. Mr. Speaker, I rise today to support H.R. 1298, the United States Leadership on HIV/AIDS, Tuberculosis, and Malaria Act of 2003. This legislation affirms our commitment to stop the spread of these diseases which have ravaged much of the world. The President has made this a priority for the administration, and it is an opportunity for the United States to demonstrate our commitment to leadership on this issue. This is a comprehensive piece of legislation that will not only authorize our contribution to the Global AIDS Fund, promote transparency and accountability in the expenditure of these funds; it will also work to reduce the debt burdens of countries facing public health crisis.

The House Financial Services Committee has a key role in crafting U.S. policy in the international financial institutions, and this Committee has been examining the role of these institutions in preventing AIDS and reducing debt burdens. I would like to thank Representatives LEACH and BIGGERT of the Financial Services Committee for their leadership on U.S. global AIDS policy. They have been instrumental in ensuring that the World Bank remains the trustee of the Global AIDS Fund and in encouraging private contributions to the Global AIDS Fund. Additionally, Subcommittee Chairman SPENCER BAUCHUS has been a strong supporter of common sense debt relief policy over the years. It is his leadership that has brought the issue of debt relief to the attention of Congress.

Today we consider the House legislation with an amendment added by the Senate. This amendment encourages the Secretary of the Treasury to pursue debt relief initiatives in the international financial institutions. I have agreed to accept this amendment added by the Senate in order to ensure that the President can have this legislation on his desk this week and we can begin working to stop HIV/AIDS, tuberculosis, and malaria.

I urge my colleagues to support this bill and demonstrate the U.S. Commitment to eliminating HIV/AIDS, tuberculosis, and malaria.

Mr. BLUMENAUER. Mr. Speaker, with the passage of this landmark legislation, the United States has taken an immense step towards recognizing both the severity of the global HIV/AIDS epidemic, and our own humanitarian interest in treating and preventing the spread of this disease.

The HIV/AIDS crisis is just the tip of the iceberg for health in developing nations. The task of building communities that are safe, healthy and economically secure at home and abroad cannot be achieved when a disabling portion of our global population is sick, orphaned or dying. The HIV/AIDS pandemic is affecting all races, all ages and all nations and we must all work together to solve this serious public health crisis.

We have more at stake these days than just dealing with the AIDS epidemic, important as it is. I hope that the thoughtful approach taken by the administration and Congress on this measure will be a template for moving forward in other critical areas we must address, such as homeland security, our stalled economy, and other perilous issues in the international arena.

Mr. SCHIFF. Mr. Speaker, I rise in support of this important legislation that will enable us to effectively combat the global scourges of HIV/AIDS, tuberculosis, and malaria. I am pleased with the bill as amended by the Senate, which will provide unprecedented funding to fight this deadly trio of diseases that are global in scope. I am grateful for the bipartisan leadership of my House colleagues who authored and were original co-sponsors of this bill, especially Chairman HYDE, Ranking Member LANTOS, Mr. WELDON, Ms. LEE, and Mr. LEACH.

This legislation enables the United States to take a strong leadership role to ameliorate, and, we hope, ultimately to eradicate one of the most devastating diseases that man has ever encountered. We count the victims of HIV/AIDS in the tens and hundreds of millions, worldwide. It is a disease that affects men and women, adults and children. Its impact is most devastating on the poorest, those with the least capacity to deal with the ravages of this disease or to act effectively to prevent its spread. By affecting so many millions across societal cross-sections, this disease presents a humanitarian crisis of unprecedented magnitude. Furthermore, the HIV/AIDS pandemic is a potentially destabilizing force that presents a grave threat to international security.

The African nations have been especially hard hit by the epidemic of HIV/AIDS and other diseases. Together, HIV/AIDS, tuberculosis, malaria, and related diseases are undermining agricultural production throughout Africa—aggravating disease with hunger.

This bill will address these global problems by authorizing $15 billion to combat HIV/AIDS, tuberculosis, and malaria, through a comprehensive 5-year integrated strategy. This legislation will use these funds effectively by promoting inter-agency coordination, supporting the expansions of public/private partnerships, and using targeted programs that will especially benefit children and families affected by HIV/AIDS.

Of course we must continue to work aggressively to combat the spread of this disease here in the United States and to continue our efforts to research a cure and to aid our own countrymen afflicted with this terrible illness.

I am proud to have been a co-sponsor of the House version of this vital legislation to attack one of the most significant threats to global health. I urge my colleagues to support this bill.

Mr. WELDON of Florida. Mr. Speaker, the motion we will approve today emphasizes the model of Uganda. Uganda has helped people avoid exposure and infection to HIV/AIDS. They have saved lives.

The world can take a lesson from Uganda—including the United States.

Uganda understood that, as a developing country working to build its way back from tyranny and exploitation, it had to act to save itself. It had little money, it had no expertise, it had few resources.

But Uganda had faith. Uganda had faith in God and in its people to save themselves.

President Museveni asked his people to change their behavior in order to stay alive. That is not a message that is dependent on cultural interpretation. It is not a message that requires specific technical or scientific understanding. It is a message that gave hope and health to the general population of Uganda.

And it has worked and continues to work in Uganda, Zambia, Jamaica, an Namibia.

The motion to agree to the Senate amendment that is before us is landmark legislation because it sets a course for what works in saving people's lives from the certain death of HIV/AIDS. It emphasizes treatment through antiretroviral therapy, care by assisting families and children affected by HIV/AIDS, and prevention by emphasizing education to help people avoid exposure.

This legislation makes a very important distinction between prevention activities and

intervention activities. The bill details that included in prevention are those activities intended to help people avoid exposure by reducing the number of sexual partners and—if they are adolescents—delaying sexual activity until they are married.

This is a realistic and effective public health strategy to help end the grip of HIV/AIDS.

This legislation does not eliminate the utilization of interventions that are intended to reduce the risk of infection, especially, for specific high risk populations.

The distinction between prevention and intervention is important. As a physician who has treated AIDS patients, dying from in most instances an avoidable disease, we need to emphasize risk avoidance but continue to provide options for risk reduction.

This approach, called ABC, is a sound approach meant for the general population to save as many lives as possible. It is a comprehensive approach to AIDS prevention that recognizes that people are different and a range of behavioral options for AIDS prevention needs to be presented.

In 2 days I will be traveling to Uganda to see for myself the Uganda experience. One of the things I want to investigate in Uganda is if it is staying true to the ABC approach. Since the mid 90s, there has been less of an emphasis on sexual behavior and more on medical solutions. In recent years, there has been a small but disturbing trend toward riskier sexual behavior, and for the first time in a decade there has been a slight up-tick in national infection rates.

The Uganda ABC model of the earlier period, the one that seems to have worked the best, is the one that has most to teach the rest of the world. That is why I am so pleased to support this motion and provide real solutions and real hope to the people of the world.

Ms. MCCOLLUM. Mr. Speaker, I ask that the following article from today's Washington Post be inserted in the RECORD.

IN ANOTHER BREAK WITH PAST, KENYANS SEE HOPE ON AIDS

(By Emily Wax)

NAIROBI.—The preacher's message to his 3,000-member congregation inside the Kenyan Local Believers Evangelical Church on a rainy Sunday was a simply one: Condoms don't protect against AIDS.

The crowd responded with a ringing ''Eh,'' meaning yes, nodding as they clapped and rocked to his confident voice and his message.

''In fact, if you have sex using a condom 10 times, you will get 10 percent of the AIDS each time,'' thundered the pastor, Solomon Ndoria, wearing a mustard-colored three-piece suit and pumping his hands in the air. ''Then you will actually have AIDS. So just abstain from sex.''

One day later, Lucy Wanjiku's message to the man in her dark metal shack, standing beside her thin foam mattress, was a simple one, too. But she mumbled it.

She needed cash. She had to feed her 4-year-old son. So the 30-year-old woman who usually sold African crafts was selling her body.

Wanjiku, one of the many members of Ndoria's church who live in Kangemi, a Nairobi slum, had listened to her pastor's words. But she had also heard discussions at the local health clinic and seen posters downtown, and she wanted her client to use a condom.

He refused, slapping her face. Then in the dark must of her room, on her cot, with her son crying nearby, they had sex, she said. Afterwards, she had enough money for pounded maize. Now she has the virus that causes AIDS. She said she believes she will die soon.

The preacher and the prostitute exemplify the emotional debate over AIDS in Africa and its life-and-death consequences. As of the end of last year, an estimated 29.4 million people in sub-Saharan Africa had AIDS or HIV, according to U.N. estimates. About 3.5 million were infected during 2002, and an estimated 2.4 million people died of AIDS complications that year.

In Kenya, a nation of 31 million, 15 percent of adults have AIDS or HIV, U.S. statistics indicate. An estimated 500 to 700 Kenyans will die each day this year from AIDS-related causes. Yet after two decades of outside assistance and internal debate, Kenya, like most of its neighbors, has yet to find an effective strategy for preventing the disease or for treating those who contract it. And AIDS continues to kill entire villages, to wipe out generations.

When the country's first free and fair elections in December brought an end to 24 years of autocratic rule by Daniel arap Moi, many hailed it as a decisive moment not only in Kenya's political history but in its fight against AIDS. The new president, Mwai Kibaki, proclaimed a ''total war on AIDS.'' He has committed his government to help pay for the treatment of 40,000 patients and abandoned Moi's self-described ''shy'' policy about condom use, taking a stand supporting condoms in addition to abstinence until marriage.

After Kibaki's election, more than 500,000 condoms were distributed in western Kenya, where HIV infection is most prevalent. Kibaki's government ordered 50 million condoms from German prophylactic maker Condomi, and Kibaki said he will now implement the country's dormant AIDS prevention strategy, which long included plans to distribute condoms in hair salons, banks, restaurants and bars in addition to health facilities. Kibaki said the government will use a $100 million ''soft'' loan from the World Bank to pay for 300 million condoms over a four-year period.

Kibaki maintains that if the AIDS problem is not tackled, none of his government's other programs will matter. ''We must all come out and fight and eradicate this disease, because there won't be any point of improving the welfare of people who are going to die,'' he said last month. ''I would want us to look back and say, 'That is the disease that used to kill us.'''

Anti-AIDS crusaders say they hope Kibaki continues to follow a path that diverges sharply from the practice of many African governments to keep silent about condom use and AIDS. Ghana and Rwanda, largely Christian nations, are still unclear about prevention policies. In contrast, Botswana, with its tiny population of 1.6 million and its massive infection rate of 36 percent, has been aggressive both in rhetoric and treatment.

The most widely praised example in Africa is Kenya's neighbor, Uganda, where the policies of President Yoweri Museveni are credited with helping bring HIV infection rates down from 30 percent to 5 percent. Museveni set up aggressive and candid campaigns that included condom distribution and a national plan to attract aid donors to the country of 24.7 million.

''I think saving these lives is feasible in Kenya—right now,'' said Christa Cepuch, a Kenya-based pharmacist with the French medical aid group Doctors Without Borders. ''I think with political will anything can happen. If Kibaki sat down at his desk and made this happen, it would be a different country in 10 years. Uganda did it and now Kenya can, too.''

In Africa's impoverished countries, the debate over whether to tackle AIDS by trying to prevent it, through abstinence or condom use, or by treating it with expensive antiretroviral drugs, or both, is a complicated tangle that involves every level of society—preachers, prostitutes and their clients, farmers, orphans, drug companies and politicians.

As AIDS drugs decrease in price and advocates around the globe lobby for more funding for their purchase, some AIDS experts say they are seeing the first signs that treatment might become affordable for poor countries. But at the moment, they say, prevention is the more pressing issue.

Few Kenyans take issue with the idea that abstinence from sex is an almost foolproof way to avoid AIDS. But in a country where more than half the people live on less than a dollar a day, it's not always that simple.

Because rural jobs are scarce, many Kenyans migrate to the cities for work, leaving their families behind in small villages. When spouses are separated for long periods, sexual relations outside marriage become common. Or when there are no jobs, it is not uncommon for a woman to sell her body—perhaps just a few times in a lifetime—to feed her family for a few days.

''Let's not be so naive and so bashful as to think people are not going to have sex,'' said Wilson Ndgu, an energetic Kenyan doctor who distributes condoms at bars and in health clinics around the slums of Nairobi. ''People are having sex, so we should be promoting condoms as a way to save lives. That is the ethical and, frankly, the most Christian response.''

Most Kenyans—78 percent—practice Christianity, and most Christian denominations in Africa oppose condoms, some on the grounds that they promote sex outside marriage, others because they are a form of birth control. Only a few socially liberal church leaders have come out in favor of condom use.

''To be honest, Kibaki is in for some real serious work here. The scale of the epidemic and complete lack of response to it has created a nation where a lot of people feel they are helpless,'' said Chris Ouma, a Kenyan who is national coordinator for the Action AIDS/HIV program. ''There is a lot of education to do and a lot of working with the churches. I've never seen such prominent leaders pray for people's lives and then tell people not to use condoms.''

This All Africa Conference of Churches, with 168 members from all branches of Christianity, is torn on the issue of promoting condom use and backs a plan that tells worshipers to wait until marriage to have sex. But Kibaki is now asking church leaders to spend the first 15 minutes of every Sunday sermon preaching the policy of ABC.

ABC stands for ''Abstain, Be faithful or use Condoms,'' the approach successfully adopted in Uganda and copied by other countries. President Bush, who has pledged $15 billion to help pay for drugs in Africa and the Caribbean, has made ABC official U.S. policy. The U.S. Senate approved a $15 billion bill Friday that earmarks $3 billion a year for the next five years for programs in Africa that include education about condom use and promotion of faithfulness and abstinence.

Still, some church leaders refuse to support ABC, saying it goes too far.

''This issue may be tougher than ever finding affordable drugs for AIDS patients,'' said Melaku Kifle, outgoing general secretary of the All Africa Conference of Churches. ''And Kibaki is trying to take a stand by pushing the ABC policy. What will happen? No one really knows. Kibaki's leadership in the coming years will be critical.''

As times change, there are signs that attitudes may be changing, too.

On the television soap opera ''Saints and Sinners,'' the characters talk about AIDS. In newspapers and on the radio, the new government has launched an ad campaign that talks about it, too. The ads say: ''Three people die every five minutes from AIDS in Kenya. What are you doing about it?''

Kenyan doctors now hand out condoms in bars and talk about prevention over warm Tusker beer. Even the national museum is addressing the issue, running an exhibit this month on how treatment and prevention improve the lives of patients.

''All of my friends say using condoms is like eating a banana with the skin on,'' said Walter Koga, 22, a jobless man who was hanging out with his friends at a barbershop in Kangemi. ''Men just won't wear them because of stubbornness. People say it's not manly. But attitudes are changing. People don't want to be diseased, suffer horribly and die. I actually thought I would never wear one and now I do. I've changed.''

As a group of Koga's friends gathered to joke about how they still don't want to use condoms, Lucy Wanjiku hovered nearby, listening. She folded her arms over her chest and rolled her eyes. She told a group of women standing nearby about a friend of hers who had asked a man to use a condom and ended up getting beaten.

She wanted to tell Koga's friends to stop joking, but she didn't. Instead she went inside her dark metal shack to rest. She was too sick and weak to fight with them.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I want to thank my friend, the gentleman from California (Mr. LANTOS), for his generosity. Believe me, he is indispensable to this effort, too.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). All time for debate has expired.

Pursuant to the order of the House of Tuesday, May 20, 2003, the previous question is ordered.

The question is on the motion offered by the gentleman from Illinois (Mr. HYDE).

The motion was agreed to.

A motion to reconsider was laid on the table.

CORRECTING THE ENROLLMENT OF H.R. 1298, UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003

Mr. HYDE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 46) to correct the enrollment of H.R. 1298, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 46

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes, shall make the following correction: In section 202(d)(4)(A)(i), strike ''from all other sources'' and insert ''from all sources''.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

CHILD MEDICATION SAFETY ACT OF 2003

Mr. BURNS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1170) to protect children and their parents from being coerced into administering psychotropic medication in order to attend school, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Medication Safety Act of 2003''.

SEC. 2. REQUIRED POLICIES AND PROCEDURES.

(a) IN GENERAL.—As a condition of receiving funds under any program or activity administered by the Secretary of Education, not later than 1 year after the date of the enactment of this Act, each State shall develop and implement policies and procedures prohibiting school personnel from requiring a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school or receiving services.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic performance or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under section 612(a)(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(3)).

SEC. 3. DEFINITIONS.

In this Act:

(1) CHILD.—The term ''child'' means any person within the age limits for which the State provides free public education.

(2) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 4. GAO STUDY AND REVIEW.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of—

(1) the variation among States in definitions of psychotropic medication as used in regard to State jurisdiction over public education;

(2) the prescription rates of medications used in public schools to treat children diagnosed with attention deficit disorder, attention deficit hyperactivity disorder, and other disorders or illnesses;

(3) which medications used to treat such children in public schools are listed under the Controlled Substances Act; and

(4) which medications used to treat such children in public schools are not listed under the Controlled Substances Act, including the properties and effects of any such medications and whether such medications have been considered for listing under the Controlled Substances Act.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit a report that contains the results of the review under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BURNS) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BURNS).

GENERAL LEAVE

Mr. BURNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1170.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume.

Today we are considering H.R. 1170, the Child Medication Safety Act, which will prevent school personnel from requiring a child to obtain a prescription for a controlled substance in order to remain in the classroom. I would first like to thank Chairman BOEHNER and Speaker HASTERT for their support of this legislation and Subcommittee Chairman CASTLE for conducting an important hearing on this bipartisan bill.

In recent decades there has been a growing number of children diagnosed with attention deficit disorder and attention deficit hyperactivity disorder and then treated with medications such as Ritalin and Adderall. When a licensed medical professional properly diagnoses a child as needing these drugs, the administration of the drugs may be entirely appropriate and very beneficial. While these medications can be helpful, they also have the potential for serious harm and abuse, especially for children who do not need these medications. In many instances, school personnel freely offer diagnosis for ADD and ADHD disorders and urge parents to obtain drug treatment for the child.

Sometimes officials even attempt to force parents into choosing between medicating their child and remaining in the classroom. This is unconscionable. School personnel may have good intentions, but parents should never be required to decide between their child's education and keeping them off potentially harmful drugs. School personnel

should never presume to know the medication needs of a child. Only medical doctors have the authority to determine if a prescription for a medication is physically appropriate.

□ 1115

The bill before us today, the Child Medication Safety Act of 2003, is straightforward, sensible legislation that aims to remedy this problem facing parents across the Nation. It requires States to establish policies and procedures prohibiting school personnel from requiring a child to take medication in order to attend school. This bill has been carefully crafted to preserve communication between the school personnel and the parent, but it also protects parents from being coerced into placing their child on a drug in order to receive educational services. Parents would no longer be forced into making decisions about their child's health under duress from school officials.

The language as amended in committee makes some important clarifications to the bill. While the bill as introduced only included drugs listed in schedule II of the Controlled Substances Act, we learned that there are replacement drugs for Ritalin and Adderall in other schedules. For this reason and to answer concerns among the mental health community, the list of covered drugs was expanded to cover those listed in all five schedules of the Controlled Substances Act.

The bill before the House today also includes an important clarification to ensure that parents and teachers are able to have an open dialogue about any academic or behavior-related needs of the child. This legislation is intended only to prevent school personnel from requiring children to be medicated. It is not intended to stifle appropriate dialogue between parents and teachers. Teachers spend so much time with the students and observe a wide variety of situations and parents often ask their child's teachers to share their observations about their child's behavior in school. We certainly do not want to infringe on these important conversations. The Child Medication Safety Act of 2003 makes clear that appropriate conversations can still take place. This is an important change that was brought to my attention by a number of my colleagues, and I would like to particularly thank the gentleman from Rhode Island (Mr. KENNEDY), the gentlewoman from California (Mrs. DAVIS), and the gentlewoman from California (Ms. WOOLSEY) for their help in this area.

This bill is not antischool, antiteacher, or antimedication. This bill is pro-children and pro-parent. The Child Medication Safety Act of 2003 is essential to protecting both parents and children. I urge my colleagues to support this bill that restores power to the parents.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

When I asked the Marin County superintendent of public schools what she thought about H.R. 1170, she replied that it was a bill that would affect the many to solve the possible problem of just a few, and I think that describes it perfectly. Of course no one wants a school to force parents to medicate their children. In fact, we would not stand for that. But neither do we want teachers and other school personnel to be afraid to talk to parents about children's behavior or to suggest that a child should be evaluated by a medical health practitioner. That is why we worked with the gentleman from Georgia (Mr. BURNS) to add a provision to H.R. 1170 that specifically protects a teacher's right to have these discussions with parents and to identify a child for evaluation just as they can do now under IDEA. While I do think this bill creates more paperwork than good public policy, I do understand the gentleman from Georgia's (Mr. BURNS) intentions, and I appreciate his willingness to work with us.

This bill was unanimously voted out of the Committee on Education and the Workforce, and I know of no objection to it passing under suspension this morning.

Mr. Speaker, I reserve the balance of my time.

Mr. BURNS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina (Mr. WILSON), a member of the committee.

Mr. WILSON of South Carolina. Mr. Speaker, it is an honor for me to be here today to speak on behalf of the Child Medication Safety Act of 2003. I want to particularly commend the author of this bill, the gentleman from Georgia (Mr. BURNS). He himself is a professional educator and knows firsthand how significant that law can be. I have the perspective of being the father of four children, and I know how important this can be to their ability to do well in school. And it is a big day for us. My ninth grader completes his final day today. I know he is a happy creature at home on his way to the tenth grade. Additionally, my wife is a teacher, and I am really proud of her service. She just concluded her first grade class yesterday; so she is out for the summer.

But as a parent and a spouse of a teacher, I appreciate this legislation. The Child Medication Safety Act of 2003 requires States, as a condition of receiving Federal education funds, to establish policies and procedures prohibiting school personnel from requiring a child to take a controlled substance in order to attend school. Parents have felt pressured to place their child on drugs like Ritalin or Adderall. These are potentially dangerous drugs and only licensed medical practitioners should recommend these drugs and then carefully monitor the child for harmful side effects. School districts and teachers should not presume to know what medication a child needs or if the child even needs medication. Only medical personnel have the ability to determine if a prescription for a controlled substance is appropriate for a child.

The input and advice from schools and teachers carry weight with most parents. Parents should not be forced to decide between getting their child into school and keeping their child off mind-altering drugs. Parents are in the best position to determine what is best for the child. After listening to licensed medical personnel, a parent is the one who should determine whether their child should be medicated, not school personnel. Schools should respect a parent's choice and not use coercive measures that might be harmful to children merely to avoid dealing with behavioral problems. Most importantly, the bill ensures that there is open communication between the school personnel and parents.

I urge my colleagues to support H.R. 1170.

Ms. WOOLSEY. Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to commend both sides for working out a good bill that passed unanimously from the committee. I want to commend the gentleman from Georgia (Mr. BURNS), my good friend and colleague, and his office for working very closely with all of us in trying to ensure that we were able to address the needs of families and children in school.

When I travel around my district in Rhode Island, I find school teachers telling me that the biggest single problem they have is addressing the emotional and social development of the kids in their classrooms. These kids come to school often from broken families, family violence, situations that none of us can even begin to imagine, and to think that these children are going to learn and not be able to shut out these things from their mind about what is going on at home is just not being realistic. These kids need assistance, they need help, and they need counseling. That is why I think we have done so well by trying to ensure that there are more school counselors, but we still need to do more.

In terms of the mental health part, I think this is an important part of development. I think this bill does a lot to ensure that we do not tie the hands of teachers and principals and administrators insofar as their consulting with parents. In many respects teachers have a window into what is going on in that child's life, and they are best equipped to be able to talk to those parents and be able to consult with those parents about what those children might need. Obviously, none of us wants to see a situation where instead of getting these kids the necessary emotional and social support, all they give to these kids is medication. We do not need to do that, but we do need to

ensure that for those kids who do need medication who do have those kinds of chemical imbalances that make it very difficult for them to learn that they can get the needed support.

I think overall the biggest challenge that we have in this area is ending the stigma of mental health. Somehow, having any kind of range of mental illness is a stigma. I myself suffer from depression. I take medications for it. It is nothing I feel ashamed of. I also have asthma. I take medications for that. And yet in this country we still have this pervasive view that somehow if one has kind of an emotional problem that that is their problem, that is of their own making, that it is not some part of their brain chemistry. Just as diabetes or asthma or any other chronic disease would not be their fault, neither is any mental illness.

So that is why I think this bill is important in that it does not stigmatize those families and children that may be suffering from emotional and social challenges. So with that I ask for support for this legislation and commend the gentlewoman from California (Ms. WOOLSEY) for her good work.

Mr. BURNS. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Pennsylvania (Mr. MURPHY), a professional in the health care field.

Mr. MURPHY. Mr. Speaker, I thank the gentleman from Georgia (Mr. BURNS) for putting together this legislation which actually is extremely important. I know I have seen in my own practice as a psychologist the importance of helping to make sure that children get to the right professionals and that there is not coercion or threat that goes to the families.

I want to take a few moments, first of all, to lay out with regard to this bill the issues involved with attention deficit hyperactivity disorder, an often misunderstood and often maligned diagnosis that because of that lends itself to prejudicial comments as certainly the gentleman from Rhode Island (Mr. KENNEDY) was also alluding to. Attention deficit disorder has a number of diagnostic criteria which are laid out in what is called the ''Diagnostic and Statistical Manual.'' They include categories of inattention, hyperactivity and impulsiveness. Because psychiatric and psychological symptoms are described in behavioral terms they oftentimes seem vague and only behavioral. For example, under the inattention category, it might mean a person who fails to give close attention to details or has difficulty sustaining attention in tasks or often does not seem to listen when spoken to directly or does not follow through on instructions to finish school work, et cetera; often has difficulty organizing tasks and activities or avoids or is reluctant to engage in tasks that require sustained mental effort.

When one just hears some of those symptoms, one may think that those could cover a wide range of behaviors that may not necessarily reach a diagnosis that requires medication, and there is something to that. That is why it is so very important when there is a concern raised about a child's symptom picture perhaps fitting the diagnosis of attention deficit disorder that that child be thoroughly evaluated by perhaps a team of professionals psychiatrists, psychologists, people who are trained to do this, but not simply referred on the basis of this child is difficult in the classroom.

And let me lay out why. In terms of attention behaviors, we look upon this as a primary, secondary, and tertiary diagnosis. A primary attention deficit disorder is one where a child actually has the symptom pictures of attention disorder related to the biological and in some cases some inherited factors for that, but it is pretty clearly in that category. They meet the diagnostic criteria.

Secondary attention deficit disorder is when the child may have the same problems with concentration and attention and getting their work done, but it is secondary to some other problems. For example, a child may have an anxiety disorder. They may be suffering from depression. They may have sensory problems. I have known children who were referred to me for attention disorder only to find out they needed glasses or they had a subtle hearing loss. They may be having social problems, cultural problems, as they are moving from one school district to another and have a great deal of difficulty. They may have speech and communication problems where they have trouble understanding the teacher. And yet those children's symptom picture can look similar. They are not paying attention, not concentrating, they are not getting their work done, they are agitated and hyperactive. It is important that those other problems are diagnosed clearly and those are treated and those are not the children who should be given medication.

A third type is a tertiary problem, and this is not the problem with the child so much as it is a problem with expectations. That is, people may expect a pre-school child to sit still. People may expect a teenager to concentrate and not daydream. We know anybody with any rudimentary knowledge of having children knows that those are not realistic expectations, and yet there are those sometimes who feel that children who are out of sync with their expectations will somehow require medication, and that is inappropriate.

These diagnostic criteria, I should also add, in the testimony that was given to the Committee on Education and the Workforce, there were some who raised the question of whether or not this was biological. I draw some attention to some research that was done, I believe, in 1990 where they did Positron Emission Tomography. That is, they could look at the activity in the brains of people who were identified with attention disorder and those who were not and found in those who had a diagnosis of attention disorder, their brain activity was somewhat lower.

That is not to mean that they had brain damage. It simply meant by looking at levels of brain activity, they found that those parts of the brain that generally control impulses and thought, that is, the frontal lobe, et cetera, were not as active as those in people who did not have attention disorder. That lent a great deal to the science of understanding attention disorder because all along before that we thought that the brains were overstimulated and it may actually be they were undercontrolled in some regions.

This of course also lends credence to why sometimes one may use medication. The medications used, such as Ritalin or Adderall or Dexedrine, are stimulant medications; and we for many years wondered about this paradoxical effect of why would you give a stimulant medication to actually slow someone down. And the point is that it appears to stimulate those portions of the brain. Basically, sometimes a layman can understand that if they feel tired and groggy and overwhelmed and they are having trouble staying alert and staying focused, sometimes a person, as they are driving down the road, will be overactive.

□ 1130

But the point is this: What I am trying to lay out here is the complexity of this.

Let me end with this one anecdote. When I was practicing as a psychologist, I received a call to evaluate a child, and did so. Then, calling back to the school district, said this child does not appear to have primary attention disorder. I think there were some other issues here, but not that.

I was told then by the referring source in the school district, put this child on Ritalin, or we will never refer another child to your practice again. I challenged that person on that immediately and said I need to go by what I believe an appropriate diagnostic criteria is and suggested they withdraw that threat.

But that is the very reason why we need legislation like this, to say this is not something that should be done to control children. This should be something that is done to help do the best thing in the child's best interest with the best people involved using the appropriate diagnostic criteria.

This is a positive thing for children and ultimately a positive thing for families, and I certainly implore my colleagues vote yes on this bill.

Ms. WOOLSEY. Mr. Speaker, I yield 5½ minutes to the gentlewoman from California (Mrs. DAVIS).

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise today to oppose H.R. 1170 on very simple grounds: It is a solution without a problem. The bill is based on the assumption that a substantial number of educators require students to take medication in order to attend school.

At a hearing 2 weeks ago, I asked all of the witnesses if they had any statistical evidence of the frequency with which this happens. Mr. Speaker, not a single one did. All they offered were anecdotes, often anonymous ones. I believe it is irresponsible to rush to legislative judgment without facts; and, indeed, I am requesting that the Government Accounting Office report, based on its ongoing research, whether there are verified instances of this being a cause for due process hearings.

Let us be clear: If parents believe that a school has pressured them to seek a medical evaluation for their child due to the child's behavior, and if a physician evaluates the child and prescribes appropriate medication, and if the parent nonetheless does not want to give the medication to the child, there may be a conflict about the child's placement in a regular classroom. Should that happen, the parent has clear due process rights to seek an evaluation through the special education process whether or not the child will ultimately qualify for special education services. If the parent is dissatisfied with those results, an appeal to a due process hearing officer is available.

Please note: Teachers educate. They cannot medicate; and physicians, as we know, must do that.

What happens in real life if a parent is unhappy with a school's placement of their child? As a former school board member, I can tell you that they pick up the phone and they call their school board representative. And that is exactly what they should do. Where a problem may indeed exist, the problem needs to be addressed specifically with the involved personnel and known circumstances.

Are there bad apples in the world of education who may have put inappropriate pressure on a parent to seek a pharmaceutical solution to a behavior problem? Well, yes, there possibly are. Bad apples do exist. But if we think of every one of tens of thousands of schools in our country as having a barrel of apples, the teachers of our children, is it fair to castigate all of those barrels of apples as being rotten because across the country there is one bad apple in a barrel here or there? I think we discredit the tens of thousands of wonderful teachers in our country when we legislate based on this false assumption.

But I want to thank, Mr. Speaker, the gentleman from Georgia (Mr. BURNS) for having accepted changes to his original bill that mitigate the most alarming issue contained in the original language. He has accepted a provision that clearly states that it is the right and responsibility of teachers to counsel parents about the educational, physical and emotional attributes of their child as compared to the norm of children and to recommend professional evaluation, if warranted.

If a child is having trouble seeing the blackboard, the teacher must advise the parent to seek professional help. Teachers cannot prescribe glasses, but they certainly must identify the need. It is the same if a child with diabetes or asthma is having trouble regulating the medications he takes, and this affects the child's ability to learn. It is the same if the child's mental health needs require evaluation so that that child and the class can function beneficially.

The reason that this section is so important is that it appeared that the measure as originally proposed had provided an opportunity for groups who openly oppose all mental health evaluation to seek to affect the teacher-parent counseling relationship by chilling the teacher's right to speak of these matters to parents.

While the measure before us today contains some mitigating language, what is so alarming is that when the Individuals with Disabilities in Education Act came before the committee, this bill's original language was offered without notification and was voice-voted without the benefit of hearings or study. It is thus part of the House-passed IDEA bill; and it is critical that, should that language be included in the conference bill, that the mitigating paragraph contained in today's separate bill be included in that language as well.

Although today's bill has been improved, I would still ask Members as legislators to consider the process of this legislation. I believe that legislation should be based on the documented existence of a problem, not on hearsay and innuendo; and I believe that all of the wonderful, caring teachers in our country should be celebrated for their compassion for children's needs and not tarnished by the stated assumption of this measure.

Mr. BURNS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me time, and I want to congratulate the gentleman from Georgia (Mr. BURNS) on this legislation, H.R. 1170, and would like to encourage strongly all of our colleagues to support this bill.

Mr. Speaker, the Child Medication Safety Act of 2003 requires States, as a condition of receiving Federal education funds, to establish policies and procedures prohibiting school personnel from requiring a child to take a controlled substance in order to attend school. I could not agree with that more.

The problem is, parents feel the pressure from school officials to put their child on drugs like Ritalin or Adderall. Basically, these can be potentially dangerous drugs, and the underlying part here is that only licensed medical practitioners should recommend these drugs and then carefully be able to monitor the child for harmful side effects.

The very idea that the pressure can be brought to bear on a parent to force them to put a child on any of these drugs, and particularly Adderall and Ritalin, just goes against the principles of good common sense.

School districts and teachers ought not to presume to know medications that a child needs. If a child in fact needs medication, only medical personnel have the ability to determine that.

I am very pleased that this bill will hopefully begin to rein in some of the consequences of leaving it up simply to the school to determine if a child needs to be put on a medication and, more importantly, to put the pressure on the parents. This does not keep the school officials and the parents from having good conversations about a child. Obviously, we all want that. I am absolutely satisfied that the bill offered by the gentleman from Georgia (Mr. BURNS) does not keep that from happening.

Mr. Speaker, let us support this common sense legislation and move on.

Ms. WOOLSEY. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of H.R. 1170, the Child Medication Safety Act, and commend the gentleman from Georgia (Mr. BURNS) for taking the initiative to introduce this resolution.

I also would like to most directly associate my remarks with those of the gentleman from Massachusetts (Mr. KENNEDY), who made what I think to be some real points relative to medication, the utilization of it, and really the relationship of the whole question of mental health.

Mr. Speaker, there are several studies over the last decade pointing out the fact that prescription drug abuse is on the rise in America. In 1999, an estimated 4 million people, 2 percent of the population, aged 12 and older were currently using certain prescription drugs nonmedically. The data from the National Institute on Drug Abuse demonstrates that the most dramatic increase in new users of prescription drugs for nonmedical purposes occurs in the ages 12 to 17 and 18 to 25. This resolution will hopefully help this growing problem of addiction by giving parents a voice in whether their child should be medicated or not without the consequence of having their child removed from school.

Teachers and other school personnel will still be able to recommend to parents if they feel there is a medical problem with the child, be it a need for a hearing or vision test, or if there is concern that maybe the child should be seen by a physician for diabetes, epilepsy or attention deficit disorder.

Of course, our teachers and school personnel are with our children for a

longer period of time during the day and, of course, many may witness problems that parents may not see before or after school. But no parent or child should be forced to use prescription drugs to obtain an education. There is still something called patients' rights, parents' rights, children's rights; and certainly the parents of children should have the right to determine when and if their children should be medicated or not.

I think this legislation provides the opportunity for the kind of interaction between parents and teachers so that parents get the best information. They then can make a determination, and jointly the child's education can always be the first order of concern.

Mr. Speaker, I think this is an excellent piece of legislation.

Mr. BURNS. Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate all of the remarks we have heard on the floor today. I said before when the subject of Ritalin come up, I raised four children, and I am absolutely certain that Ritalin or some other psychotropic drug would have been suggested for each and every one of them sometime during their school career. In fact, when I was a kid, my grandfather used to offer to pay me 5 cents for every minute that I could sit still. Well, I never earned a nickel. So my kids came with this hyperactive behavior through the genes, and we all learned through behavior modification and through growing up that, indeed, moving around all the time was not going to get us anywhere. So they learned to be calm, before I did, actually.

But that is why I have concerns about blurring the line between the behavior of an active, high-spirited child and a child with a disability.

This is not to suggest, however, that attention deficit hyperactivity disorder, ADHD, is not a very real disability for many children. ADHD robs so many children and their parents of the pleasures of childhood and family. The children are labeled as ''bad'' for things that they actually cannot control. The parents find themselves frustrated and often angry at their child.

However, the growing increase in the manufacture and prescription of psychotropic drugs, like Ritalin, is a cause for concern. The decision to treat a child with any drug, but certainly a stimulant, should be made very, very carefully and only after comprehensive evaluation and diagnosis. It is crucial that parents be very well informed about these drugs, both the possible successes of the drug and the possible side effects of a drug, if it is being considered for their child.

It goes without saying, parents must have the final word in deciding whether or not their child takes any psychotropic drug.

□ 1145

Mr. Speaker, I am pleased to have been part of these negotiations with the gentleman from Georgia (Mr. BURNS) and with the other side of the aisle in our committee so we could come up with a bill that we totally support and feel will be good for the child, for the parent, and for the education system for that child.

Mr. Speaker, I yield back the balance of my time.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank my colleagues on the other side of the aisle for working closely with us on this bill. I appreciate the gentleman from California (Mr. GEORGE MILLER), the gentlewoman from California (Ms. WOOLSEY), and the gentlewoman from California (Mrs. DAVIS), in particular, for their contributions to this important legislation.

I also would like to thank the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), for his support and guidance in this effort and also the leadership as we sought to bring this bill to the floor this day.

This is a straightforward, sensible bill. It just makes common sense. It is a bipartisan bill that has been worked out to ensure the appropriate and effective protection of our children. This bill protects children. It puts the power back in the hands of the parents so they can make an informed choice in the best interests of their family. It ensures that teachers and administrators are involved in the decision process, actively involved in the child's development.

In conversations with the National Association of Education, they in their review saw no problems and are supportive of this legislation.

The most important thing about this bill is it protects children and it keeps them from being inappropriately medicated. This bill is not antischool or antiteacher; it is not antimedication. There are appropriate and reasonable ways in which we should use medication in the best interests of our children. But this bill is prochild, it is prohealth, it is proparents. It ensures that America's children are protected.

Mr. Speaker, this is good legislation, it is reasonable legislation, and it is legislation that is good for America. I urge my colleagues to support H.R. 1170.

Mr. HASTERT. Mr. Speaker, I rise today in support of H.R. 1170, the Child Medication Safety Act, which prohibits school personnel from requiring a child be medicated in order to receive an education and stay in the classroom.

There have been reports that schools have forced parents to put their children on medication, such as Ritalin, in order to allow them to continue attending school. Some have gone so far as to keep children out of the classroom until the parents relent and agree to put their kids on these drugs. In one specific case, a child was removed from their home because the parents refused to put them on medication as mandated by the school. This is outrageous. School personnel should never presume to know the medication needs of a child. Only medical doctors have the ability to determine if a prescription for a psychotropic drug is appropriate for a child.

As a former school teacher, I am sympathetic to need to have order in a classroom with as few disruptions as possible. However, it has been my experience that kids will be kids and there will always be children in the classroom who are overactive or inattentive.

It's important to note that nothing in this legislation prevents a school or school personnel from recommending a parent seek medical review of their child's physical or mental health. This legislation just keeps them from requiring medication in order to receive education services. The prescribing of medication should be left to parents and medical professionals not school officials.

Psychotropic drugs are serious medications and have an altering effect on the mind. These drugs have potential for serious harm, addiction and abuse that is why they are listed on Schedule II and IV of the Controlled Substances Act. Therefore, it is critical that they only be prescribed by licensed medical practitioners who have seen the child and made a medical evaluation to determine a diagnosis and the proper needs of a child.

H.R. 1170, the Child Medication Safety Act, is important legislation that protects children and parents. I would like to thank Congressman BURNS and Chairman BOEHNER for their hard work on this bill. I strongly support their efforts to move this legislation forward.

Mrs. BLACKBURN. Mr. Speaker, no parent should feel forced to put their child on a psychotropic drug like Ritalin or Adderall. But that is just what is happening every day in schools across America. Currently, teachers can coerce parents by demanding that their child be medicated to attend their class.

This is wrong. Parents should not feel pressured to make a choice for their child because a teacher or school administator—individuals who do not have a medical background to make these suggestions—tells them their child must be medicated. That is why House Resolution 1170, the Child Medication Safety Act of 2003, is such an important piece of legislation. It gives parents the ultimate power in deciding whether or not their child should be on medication.

This bill requires states that receive Federal education funds to establish policies and procedures that prohibit school officials and teachers from requiring a child to be on a psychotropic drug to attend school.

Of course, parents often seek the advice and input of their child's teacher. But this bill calls for open communication between parents and teachers. Once a teacher or other school official meets with the parent and makes a suggestion that medication may be needed for a child to learn in the best way possible, the parent can then go to their family doctor to discuss both the risks and the benefits of these psychotropic drugs and make the choice themselves after weighing all of the options.

Parents are the only ones who should make the ultimate decision whether their child needs to be on medication. They should never be told that their child cannot attend school without being on a drug like Ritalin. H.R. 1170 gives the power to the parent when it comes to these choices.

Mr. BOEHNER. Mr. Speaker, I rise today in support of H.R. 1170, the Child Medication

Safety Act, which will prevent school personnel from requiring a child to obtain a prescription for a medication in order to remain in the classroom.

I would first like to thank my colleague from Georgia, Representative MAX BURNS, for his leadership in introducing this legislation to address this significant issue. I would also like to thank LYNN WOOLSEY for her help to improve this legislation. I am please to support this bipartisan legislation and am thankful for their efforts.

We have heard from numerous parents and grandparents that have been coerced or pressured by school districts into placing their child on medication in order for the child to attend school or receive services. I recognize the difficulty that children with attention or behavior problems bring to school, but no one should react by automatically assuming that the child should be on drugs. And certainly an individual without a medical license should not presume to understand the severity of a problem and simply assume that the child would be better off with drugs.

I'm sure that in these situations school personnel think they are doing the child, and the parents, a favor. But they are not. Instead they create new problems, unintended problems, and add to the culture where a pill should magically solve all of the child's problems. Worse, the quick fix of a pill fails to account for the potentially harmful effects of these drugs when not properly administered.

The diagnosis of a disability or emotional or behavioral problem requires the careful examination and discussion with a licensed medical practitioner. This bill protects that dialogue and ensures that parents are not forced to decide between their own preferences and a school official who is acting inappropriately.

I think it is also important to point out that we have provided strong safeguards to protect appropriate communication between the parent and the teacher. Teachers will still be able to share their observations with parents about the child's behavior in the classroom and the school. Teachers and parents will still be able to discuss the child's academic performance. This bill does not stifle appropriate communication.

This bill has the clear and simple goal of preventing school officials from requiring children to be medicated with a controlled substance in order to attend school. This is a goal we can and should all support.

H.R. 1170 is an important bill that will provide security and comfort to both teachers and parents to ensure that our children are protected. I urge my colleagues to support this bill.

Mr. BURTON of Indiana. Mr. Speaker, I rise to express my support for the ''Child Medication Safety Act of 2003 (H.R. 1170),'' which would prohibit the required administration of psychotropic medications in order for children to attend school.

Like many Members, I believe that our children are our future. We need to do our best to protect and improve the health and well-being of our Nation's children, including protecting them from medications that can potentially harm them.

While I was the Chairman of the Full Committee on Government Reform, I held a hearing on September 26, 2002, to examine allegations that too many children are being medicated for Attention Deficit Disorder (ADD) and Attention Deficit/Hyperactivity Disorder (ADHD) at increasingly younger ages, and to discuss the health implications of these drugs.

Our investigation found that disorders, such as ADD and ADHD, are diagnosed by a checklist of behaviors, not medical science. According to the National Institutes of Health, the behaviors, or ''symptoms'' used to diagnose these disorders are inattention, hyperactivity, and impulsivity. Based on these descriptions, almost every child in the United States would be considered afflicted, and under current law, be required to take psychotropic medication to attend school.

Ritalin is perhaps the most prescribed psychotropic drug used to control children with behavioral problems. It is estimated that four to six million children are taking this drug daily in the United States, a 500 percent increase since 1990.

Ritalin is classified as a Schedule II stimulant. This means that it has met three criteria: (1) it has a high potential for abuse; (2) it has a currently accepted medical use in the treatment; and (3) it is shown that abuse may lead to severe psychological or physical dependence. According to research published in the Journal of the American Medical Association, Ritalin was shown to be a more potent transport inhibitor than cocaine. In addition, the chronic use of Ritalin can lead to: aggression, agitation, disruption of food intake, weight loss, and even death.

Schools should not be able to force parents to administer these psychotropic drugs to their children—not only are these disorders diagnosed without physiological testing, but they can also lead these children to further drug-use and dependence, or even the worst of all scenarios . . . death.

Mr. Speaker, H.R. 1170 would protect our children from being required by schools to become subject to psychotropic medications that can lead to detrimental health effects as well as drug addiction based on unscientific diagnoses. I urge continued support from my colleagues on this important legislation.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and pass the bill, H.R. 1170, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BURNS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 245 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 245

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and those made in order by a subsequent order of the House. Each amendment printed in the report of the Committee on Rules may be offered only in the order printed in the report (except as specified in section 2 of this resolution), may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment), and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in the report are waived. After disposition of the amendments printed in the report, the Committee of the Whole shall rise without motion. No further consideration of the bill shall be in order except by a subsequent order of the House.

SEC. 2. The Chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report of the Committee on Rules out of the order printed, but not sooner than one hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

SEC. 3. During consideration of the bill under this resolution or by a subsequent order of the House—

(1) after a motion that the Committee rise has been rejected on a legislative day, the Chairman of the Committee of the Whole may entertain another such motion on that day only if offered by the chairman of the Committee on Armed Services or the Majority Leader or a designee; and

(2) after a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII) has been rejected, the Chairman may not entertain another such motion.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman

from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, the Committee on Rules met and granted a structured rule for H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004. The rule provides for 2 hours of general debate, equally divided between the chairman and ranking minority member of the Committee on Armed Services. It waives all points of order against consideration of the bill.

Finally, it allows that the chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report of the Committee on Rules out of the order printed, but not sooner than 1 hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

This is a fair rule, it is the traditional structured rule for defense authorization, and it provides for a debate on a number of pertinent issues, including nuclear policy, border security, and an assessment of NATO headquarters in Brussels, Belgium.

H.R. 1588 is a good bill. It firmly shows our commitment to restoring the strength of our Nation's military. The Committee on Armed Services has recommended $400.5 billion be authorized for the Department of Defense and the national security programs of the Department of Energy in fiscal year 2004.

I commend President Bush, Secretary of Defense Rumsfeld, and our military leaders for taking the fight to those who would do us harm. We stand committed to provide the resources to ensure our continued success.

The Iraqi conflict and our continuing war on terrorism have brought a renewed and proper focus on national defense. We owe much to our men and women in uniform. Their success in Iraq and Afghanistan is a testament to their bravery, training and equipment, and their commitment to defend our freedom.

With U.S. military personnel risking their lives on the front lines of the war on terrorism, H.R. 1588 is more than just a signal to our soldiers, sailors, airmen, and Marines that this Nation recognizes their sacrifices. It is the means by which we make our commitment to providing them a decent quality of life by providing an across-the-board 4.1 percent pay increase for military personnel, so as to sustain the commitment and professionalism of America's all-volunteer Armed Forces, and the families that support them.

Even before Operation Iraqi Freedom, the global war on terrorism and the commitment to homeland security, the Armed Forces had insufficient manpower for existing wartime and peacetime requirements. A lesson learned is that with the likelihood of the open-ended, long-term manpower requirements of stabilizing Iraq and the continuing war on terrorism, it is now crucial to begin addressing existing shortfalls.

I commend my colleagues, the gentleman from California (Chairman HUNTER), and the ranking member, the gentleman from Missouri (Mr. SKELTON), for crafting this legislation that will strengthen America's military.

Today, our forces must be able to respond quickly to rapidly changing threats. As such, nothing could be more important to our military than its current state of readiness. The pace of current operations has placed huge demands on personnel and equipment already suffering from a decade of underfunding. This legislation reduces non-warfighting spending and puts the money where it is of best use, training for our service members, maintenance of equipment, and support for the cost of operations.

I am pleased that H.R. 1588 authorizes $35.2 million for 39 Knight family systems to the Army National Guard. The Knight system is a high mobility multipurpose wheeled vehicle-mounted system which incorporates a Bradley fire support vehicle mission equipment package of a laser rangefinder, thermal sight, hand-held computer and global positioning systems. It is used to locate targets for laser-guided munitions.

As the Department of Defense increases the use of precision-guided munitions in combat, this money will help North Carolina's 30th Heavy Separate Brigade Armor use the Knight system to locate targets in support of these munitions.

H.R. 1588 makes the preparation and modernization of our National Guard a top priority.

I also want to commend my colleague, the gentleman from North Carolina (Mr. HAYES), for his work on strengthening the ''Buy American'' provisions included in this bill. His language will ensure that all of the components of DOD uniforms come from American companies. The language specifically works to more adequately cover domestic textile and leather industries.

However, there is one amendment the Committee on Rules made in order that I strongly oppose personally, the Sanchez amendment. It would allow abortions on our military bases overseas. Military treatment centers, which are dedicated to nurturing and healing, should not be forced to facilitate the taking of the most innocent human life, the child in the womb.

For the past 6 years, the House has voted to keep abortion-on-demand out of military facilities, and I urge my colleagues to stay on this course and vote against this amendment.

That said, this is a fair rule. So let us pass the rule and pass the underlying defense authorization bill. At the end of the day, we will be making our homeland safer, supporting our sons and daughters serving in the military, and preparing for war, thereby ensuring victory. At this crucial time in our history, this bill is most important.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, when it comes to supporting America's troops, there is no partisan divide in this Congress. Democrats and Republicans join together in saluting the soldiers, sailors, airmen, and Marines who serve America. More importantly, we work to provide them with the resources they need to do their jobs that we have asked them to do. So every year, Democrats and Republicans work very hard to put together a defense authorization bill that is as bipartisan as it is robust.

There is much to be proud of in this bill. Its core is a bipartisan product that provides more for national defense than the President requested and more than this Republican Congress approved in its budget. As always, the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services, deserves a lot of credit. He remains an unwavering advocate for the men and women in uniform who put their lives on the line every day to defend the United States.

As a longstanding supporter of the U.S. military, I am especially pleased by the success of Democrats' efforts to include substantial quality-of-life improvements for America's men and women in uniform and their families.

Specifically, this bill includes a 4.1 percent increase in basic pay for all members of the Armed Forces, plus targeted increases for midgrade and senior noncommissioned officers and select warrant officers to enhance retention. It also builds on our efforts to support the National Guard and the Reserves, who bear more and more of the burden of defending America at home and abroad.

□ 1200

For instance, it ensures is that when they serve in areas where those on active duty get hazardous duty pay, they will also.

Mr. Speaker, I want to particularly thank the Committee on Armed Services for including in this bill my legislation to make life easier for the National Guard and Reserves, both active duty and retirees, and their families by allowing them unlimited access to commissaries. They and their families are making great sacrifices for this Nation, and they deserve our support.

Additionally, this bill continues to invest in the wide range of weapons that ensure America's military superiority throughout the world. It includes $4.4 billion for the F–35 Joint Strike Fighter, the next generation multi-role fighter of the future for the Air Force, the Navy and Marines. It includes $4.3

billion for the F–22 Raptor aircraft, the high-technology air dominance fighter for the Air Force. It also includes over $1.6 billion for the V–22 Osprey aircraft.

Mr. Speaker, all of these important, pro-defense provisions have strong bipartisan support. They reflect the longstanding commitment of Democrats and Republicans to work together to ensure that the U.S. military has the resources it needs.

Unfortunately, several provisions of this bill are neither bipartisan nor necessary to maintain the strength of the U.S. military. Indeed, some are nothing more than extremist, right-wing ideology piggy-backed on an otherwise bipartisan bill.

For instance, does anyone really believe that national security requires that we gut environmental protections? Of course not.

But rolling back America's environmental protections is practically the Holy Grail of the Republican party. So Republicans stuck into this bill provisions that attack the Endangered Species Act and Marine Mammal Protection Act.

Similarly, Republicans are trying to use this bill to weaken the workplace protections of the patriotic men and women employed by the Pentagon. They even defeated a Democratic attempt to preserve the current rules prohibiting patronage at the Pentagon.

Mr. Speaker, these anti-environmental riders and attacks on the men and women who work at the Pentagon are not about supporting the military. There are about supporting the Republican party idealogy, and they have no business in a bipartisan bill to provide for the men and women of the United States Armed Forces.

So Democrats have filed amendments with the Committee on Rules to free this bipartisan bill of these partisan riders. Unfortunately, Mr. Speaker, the House Republican leadership has chosen to make ideology of such paramount importance that they have shut out two of the most important Democratic amendments.

First, the Republican ideologues have denied the House the opportunity to even consider the amendment offered by the ranking members of the Committee on Resources and the Committee on Energy and Commerce. The Rahall-Dingell amendment is a common-sense and reasonable alternative to the anti-environmental language reported by the Committee on Resources and incorporated in the Committee on Armed Services bill relating to the Endangered Species Act and the Marine Mammal Protection Act. This rule instead makes in order an amendment offered by the chairman of the Committee on Armed Services. It claims to fix the most egregious provisions in the Committee on Resources bill.

The fact that the Republican leadership has chosen to shut out Democrats in this manner gives many Members on this side of the aisle more than ample reason to oppose this rule.

Now the chairman of the Committee on Rules said last night that it was still possible for additional amendments to be considered for inclusion in the second rule on this bill to be considered by the committee later today. But I doubt any Members will be holding their breath.

The fact is, the Republican leadership would have done well to give this House the opportunity to have a vote on the Rahall-Dingell substitute, rather than risking losing this rule by shutting out so many reasonable Democrats who support the bill.

Additionally, the House Republican leadership has chosen to tell the second ranking Democrat on the Committee on Armed Services, the gentleman from South Carolina (Mr. SPRATT), a Member who has extensive expertise in the issue of nuclear threat reduction, that his amendment is just too hot to handle. The Spratt amendment sought to restore the President's requests for Cooperative Threat Reduction programs. That is the President's request that he sought to restore. Yet the Republican leadership has refused to make this amendment in order, in spite of the fact that President Bush asked for this money.

Again, the chairman of the Committee on Rules told me last night that it might be possible to consider including the Spratt amendment in the second rule, but, again, Members will not be holding their breath.

Such arrogance practically begs pro-defense Members on this side of the aisle to oppose this rule, and it ought to give plenty of reason to oppose this rule to Republican Members who value fair play and institutional integrity or President Bush's national security priorities.

Mr. Speaker, serious Members on both sides of the aisle have filed many other substantive amendments. But after seeing so many significant amendments blocked in this first rule, what do they have to look forward to in the second rule? Will they be shut out again just as their colleagues have today?

I, for instance, have submitted three important amendments that address defense issues I have pursued for some time: helping immigrant soldiers earn U.S. citizenship, providing tuition refunds to reservists called to active duty, and tax fairness for civilian Defense Department employees serving in combat zones.

Mr. Speaker, I have repeatedly urged the Republican leadership to honor the long-standing tradition of allowing full consideration of substantive amendments like these on the defense authorization bill. That cooperative approach is fundamental to our efforts to keep partisan politics from polluting the Armed Forces bill and, in fact, has been followed in previous Congresses, both when the Democrats were in charge and even when the Republicans have been in charge. But this first rule has abandoned that cooperation.

For that reason, I urge Members to vote no on this rule so the Committee on Rules can go back upstairs and start this process over. Maybe on the second try the Republican leaders will allow us to get it right.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Speaker, I thank the gentlewoman for yielding me time.

Let me say to all my colleagues, this is a great defense bill that is coming to the floor, and I hope everybody supports it. It does a lot of things for America's troops. They have just finished this extraordinary operation where they pushed up through Iraq in very dangerous circumstances, engaged in many conflicts at very close ranges and secured their objective and carried out their mission with extraordinary talent and capable and courage.

Now it is our turn. It is our turn to support the troops. It is our turn to provide the readiness capability. It is our turn to provide for modernization of old platforms, and it is our turn to not only fix what we need to win now but to look beyond the horizon and fix and create and produce what we are going to need tomorrow, and this bill does this.

It provides for many of the very important enablers. And I call enablers things like tankers, tanker aircraft, that allow us to maintain that aircraft bridge between the United States or a base that we have overseas and a potential point of conflict where we can keep aircraft going back and forth, whether those aircraft are cargo aircraft to supply the troops or strike aircraft that are putting rounds on target. And because of that we have got provisions in this bill to provide for tankers. We have a tanker fund that allows us to go forward on either a buy or a lease. We have got that provision in.

We have got provisions in for more of our airlift with C–17 aircraft, these great aircraft that are providing the centerpiece of our airlift today along with our older C–5s and our in-theater C–130s.

We worked on other so-called enablers. We have ramped up this stock of precision-guided munitions we need, those munitions that allow you to go in and hit one strut on a bridge and knock it down, instead of having to carpet bomb the entire bridge with hundreds of bombs. We have a so-called deep strike package that allows us to spend $100 million on a new system to replace these bomber aircraft that we are using today. And the newest B–52 was made in July of 1962, so it is more than 40 years old. We have 21 B–1s, and we now have a small batch of 21 B–2 aircraft, our stealth aircraft. We now have a very small fleet of B–1 aircraft, because we had pulled 23 B–1 aircraft out of the fleet because we could not

afford the spare parts to keep all of those aircraft running. We put those 23 aircraft back in the fleets, or as many of them that can be retrieved, and we provide for the spare parts and the sustainability to keep that part of our important deep strike fleet going.

We provide for the 4.1 pay increase. That is the average pay increase, and we do target parts of that to various aspects of the service where we need critical skills.

We do a good job with respect to housing for our troops, for our families. Today you do not just bring a troop, a uniformed person into the services. You bring a family into the services, and you have to provide for those families. We do that in this bill.

This bill has many good things; and our great subcommittee chairman and subcommittee ranking members and my colleague, the gentleman from Missouri (Mr. SKELTON), my great partner who himself is home to the B–2 fleet in America, have done I think an excellent job on putting a great package together.

I want to speak to one aspect of this package that has been talked about a little this morning because people have said, are you killing the environment? Are you hurting the environment? Are you revamping the environment? The answer is no.

What we are doing is providing for freedom to train for our troops. What we have heard over the last many years now is that our bases around the country where these great troops that you saw in Iraq have an opportunity to train, whether they are hitting a beachhead or firing on a range or going through some type of amphibious warfare, those troops need to have places to train and those training grounds are becoming more and more constricted and more and more off-limits to our troops because of application, and I think wrongful application, of our environmental laws.

Let me show you a case in point.

This is a picture of the Marine base at Camp Pendleton in California. There is some 17 miles of beach here, and this is the beach on which the United States Marine Corps practices Iwo Jima. That is where they practice going ashore under heavy fire, where they know they will take substantial casualty for us, for freedom. And guess what we have done with our environmental laws? We have closed them out where they cannot practice.

This is a 17-mile beach. This is a base that is in excess of 100,000 acres. And I want to show my colleagues the various overlays, how the environmental applications have crept in and closed down more and more of this critical training base, and then I want to relate it to bases across this Nation.

Let us turn over to that first overlay. This is your 100,000-acre base. Here is the first overlay where training is now locked out. It is called the estuarine sanctuary. So training is locked out at Camp Pendleton. No Marines can go inside that estuarine sanctuary.

Now we have another restriction. These are the gnatcatcher restrictions. We found a small bird that is considered to be endangered; and because of that these huge areas and, remember, this is a 100,000-plus acre base, these huge areas are now restricted.

Now we have another restriction at Camp Pendleton. Let us turn the third page over. This is the rare plants restriction. It looks to me approximately another 10, 20,000 acres are now restricted from training activity.

Let us turn the next page. These are the riparian areas and the vernal pools which are now also restrictions.

So my point is, the United States Marines came in and talked to the Committee on Armed Services and they said, we used to try to work around these restrictions when we had just a couple of them. Now we can no longer work around them. And, incidentally, there is a lawsuit pending right now and there is an injunction in place for the Marines being able to practice amphibious operations on the vast majority of this beach that we put in place to allow them to practice Iwo Jima for the United States of America. So we have to do something.

So what did we do? Did we do something radical? No, we did not do anything radical. We simply said we want to balance conservation requirements and training requirements.

So what we are going to do is put together a process. It is called an inramp, which is a fancy term for saying if the Fish and Wildlife Department of the United States makes an agreement with the U.S. Marine Corps or the U.S. Navy or the U.S. Army or the U.S. Air Force and they also make an agreement with State Fish and Wildlife in the State, so if it is California, New Jersey, New York or whatever, everybody gets together and you take an area and you make a decision that allows you to balance these two important priorities, conservation and training, and you say, for example, we will allow the rifle range to be here. We will allow the gnatcatcher environment to be here. And maybe if the gnatcatchers migrate in the fall and they leave this area, we will let you have training in this area until they come back. It allows you to make a flexibility adjustment that takes care of both priorities, both conservation of endangered species and training.

Once Fish and Wildlife and State Fish and Game and the military makes this agreement, you cannot come on in after the agreement is made and place another critical habitat over the top of it and paralyze the training operation. That is what we do.

I think it is a very reasonable thing. This was passed first out of Resources with a bipartisan vote, and we passed it in the Committee on Armed Services. And the final vote on the Committee on Armed Services, I might add, when all the smoke cleared and all the dust settled and we had our final vote, I want to thank my ranking member from Missouri for his great leadership here, we had a vote of 58 to 2 in favor of this bill.

□ 1215

So this bill has really good stuff in it for the United States of America, and it balances some very important competing interests the American people have. I do not think any American, if you stopped them on the street and you went over this diagram of how training has been cut back further and further and further, at places like Camp Pendleton, where those Marines that went up the An Nasiriya Corridor trained, I do not think any American would disagree with the idea that you get together Fish and Wildlife and the Marine Corps, you make an arrangement, you set some land aside for the birds, set some land aside for the Marines, and let them both go through their operations.

So I want to thank the gentlewoman for letting me get up and explain this important aspect of the defense bill; and let me urge all Members, Republican and Democrat, to vote for this bill.

The SPEAKER pro tempore (Mr. SIMPSON). Does the gentleman from Massachusetts (Mr. MCGOVERN) seek to control the time of the gentleman from Texas (Mr. FROST)?

Mr. MCGOVERN. Yes, I do.

The SPEAKER pro tempore. Without objection the gentleman is recognized.

There was no objection.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. HOYER), our minority whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time. Once again, once again, this Republican majority shows no compunction about turning even the most bipartisan legislation into a vehicle of divisive and unnecessary partisanship.

The defense authorization traditionally unites Members on both sides of the aisle. I have always voted for it. The American people expect that. Our brave men and women in the service deserve no less. However, today the majority has purposefully loaded up this bill with extraneous and controversial provisions and forced the rule to deny our side of the aisle a fair opportunity to be heard.

Now, the gentleman from California (Mr. HUNTER), the distinguished chairman of the committee, who is now speaking to the Committee on Rules chairman, just spent 10 minutes explaining how reasonable the provisions of the bill are. But they do not have the courage of that representation to allow us to debate fully on the floor and present an alternative.

My, my, my, how confident they must be of the reasonableness of their position. Again, the majority is trying to insulate sweeping policy changes from serious scrutiny by invoking the words ''national security,'' and casting anyone who raises questions as, at

best, an impediment to national security and, at worst, unpatriotic. The further down that road we go, the less democratic we will become.

Make no mistake, this bill contains many, many important provisions. It provides good pay, housing and training for our men and women in uniform, and funds important modernization priorities that will ensure that we have the most technologically advanced military in the world. I support that. Not only that, I have supported it for 23 years in this House.

However, the addition of controversial measures that will gut the civil service system and harm the environment only subvert the democratic process and demean this House. This bill would exempt the Defense Department from compliance with the Endangered Species Act and the Marine Mammal Protection Act, even though both laws currently allow case-by-case exemptions. And here is the crucial point: the Pentagon has never before sought the exemptions that the majority would bestow today.

Fairness. Fairness. The American people expect fairness, and it dictates that the majority make the Rahall-Dingell amendment in order. It was not. The gentleman from West Virginia (Mr. RAHALL) and the gentleman from Michigan (Mr. DINGELL), who is the dean of the House, the senior Member in this House of Representatives, yet the Committee on Rules refused to allow him to offer an amendment. That is unconscionable. Furthermore, the process by which the civil service reform measures have been rushed to this floor is nothing short of appalling. This proposal was conceived by a handful of the President's advisers.

Without doubt, there are some problems in the Federal personnel system, reforms that I would support, but our military's stunning success in Iraq shows there is not a crisis. Mr. Speaker, we ought to consider this thoughtfully, and we ought to allow amendments to be offered on this floor which would provide for full debate. We are not doing that.

Vote against this rule. Vote against the previous question.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule, and I really am somewhat perplexed to hear all of the criticism of our attempts to be bipartisan on this legislation. Someone's been shut out in this process? Let me explain this rule to our colleagues, Mr. Speaker.

It is a rule which makes in order 2 hours of general debate, and it makes in order nine amendments for consideration that had been submitted to the Committee on Rules by the deadline we stated. But let me tell my colleagues what happened last night in the Committee on Rules. In our quest to try to have as many proposals as possible considered, what happened? It is the first time that I can remember, in this number, that this has taken place.

Three proposals were offered by our Democratic colleagues to actually knock out consideration of amendments that are made in order under this rule; meaning that while we were trying to provide an option of debate and then an up-or-down vote so we could in a bipartisan way address these issues, the Democrats were trying to shut out Members from having the opportunity to offer amendments. Now, I do not want to say it is unprecedented, but I do not recall it happening on three occasions as it did last night.

This should be, Mr. Speaker, a totally noncontroversial rule, because it is the same process that we have gone through. What we have done, Mr. Speaker, is we have said that we want to go with the two-rule procedure, which the Democrats did regularly and which we Republicans have done regularly in consideration of this massive Department of Defense authorization bill.

The great chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER), was here and he has talked about the fact that this is a $400 billion measure. As was said so well by my friend, the minority whip, the gentleman from Maryland (Mr. HOYER), I agree with the fact that on an issue as important as our national security we should proceed in a bipartisan way, and we want to do that.

Now, we know that one of the issues of concern, and that has gotten a great deal of attention, is the environmental question. That was raised by the gentleman from California (Mr. HUNTER) when he made his presentation from the well. And I want to say that we have been sensitive to that. I happen to believe that the provision that is made in order under what will be tantamount to a manager's amendment offered by the gentleman from California (Mr. HUNTER) does in fact move towards addressing some of the concerns that have been raised by the members of the minority.

I will acknowledge that there are some who would like to do more. But we happen to believe that the step that is taken by addressing the issues that were raised by our colleague, the gentleman from Colorado (Mr. HEFLEY), will in fact be able to be effectively addressed.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman, because I think this is an important procedural issue. And I have a quote of yours in my pocket, but I am not going to take it out.

Mr. DREIER. I think I may have heard it before.

Mr. HOYER. I am not going to regurgitate it, in terms of fairness.

But what my colleague is saying is that the dean of the House comes to your committee and wants to offer an amendment, and your committee responds, no, Dean, you have served here 40-plus years, but we know better than you do.

Mr. DREIER. Reclaiming my time, Mr. Speaker, the Committee on Rules has not said that. The Committee on Rules acted on one of two rules last night when we passed out this rule granting 2 hours of general debate and allowing for the consideration of nine amendments, which we hope to proceed with in just a few minutes.

We will be meeting sometime mid-afternoon for consideration of a second rule which will allow for consideration of other amendments when we proceed with this tomorrow. So I think that it is really incorrect for anyone to conclude that all of the action on the Department of Defense authorization rule has in fact been completed. It has not been completed.

But I want to say that the issue of the environment is one that is very important to me as a Californian. It is one that is very important, I believe, to a broad cross-section of the membership of this House, Democrats and Republicans. We also know that there have been requests made by this administration to deal with the situation that was outlined so well by the chairman of the Committee on Armed Services, where in fact we may be jeopardizing the lives of our men and women in uniform if we do not take some action.

So I understand this is going to be debated. This will be discussed. There is no doubt about the fact that this will be a topic of discussion when the amendment of the gentleman from California (Mr. HUNTER) comes up, and this will be a topic of discussion as we consider this rule as it is right now, as well as the second rule which we plan to report out tomorrow.

Let me just say that this should be a noncontroversial rule, and I do not want to foreclose the opportunity to consider any proposals that were submitted to the Committee on Rules. We will, in fact, have an opportunity to do that this afternoon, and then tomorrow we will debate a second rule that will allow for further consideration.

Mr. HOYER. Mr. Speaker, will the gentleman again yield?

Mr. DREIER. Well, Mr. Speaker, I would be happy to yield further, but I do not know how we stand time-wise. We are using up our time here.

Mr. MCGOVERN. It looks like you have plenty of time.

Mr. DREIER. Excuse me. I think it is wonderful for the gentleman from Massachusetts to come to that conclusion, but let me just suggest we do this. I will yield back my time now to my friend, and I am happy to stand here and field questions from the minority on their time.

Mr. MCGOVERN. I just have a question that requires a one-word answer.

The SPEAKER pro tempore. The gentleman from California has yielded back his time. The Chair recognizes the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. DREIER. Mr. Speaker, the gentleman does not wish to yield to me?

Mr. MCGOVERN. Unfortunately, we have a lot of people who are outraged by this unfair rule.

Mr. DREIER. We have a lot of people who wish to speak on this issue as well.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Missouri (Mr. SKELTON), the ranking member on the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding me this time and for giving me the opportunity to rise in strong, but reluctant, opposition to this rule.

By and large this is a good bill. It puts forward the opportunity for the United States military to continue research and development, procurement, training, attracting the bright young men and women who serve, and to continue to educate them along the way to think strategically, operationally, and tactically. Yet I find that this particular rule is shutting out some amendments that I thoroughly believe should be made in order. I hope that the Committee on Rules, on the second look, in the second rule that it will adopt, will hear our recommendations from the committee hearing yesterday and take us quite seriously.

Let me further state, though, that it is a pleasure working with the chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER). And I thank him for his hard work, for his dedication, for his strong feeling for the military, and for his sincerity. I think that we should let it be known that he is a strong advocate for our national security.

This is a big bill, Mr. Speaker. It authorizes almost $400 billion for the Department of Defense and energy. This bill is over 600 pages long. The Congress has a constitutional duty, as you know, to raise and defend the military in law. I had highlighted three major issues when I testified before the Committee on Rules. The first are the changes in the civil service system. That has not been ruled upon yet. Revising our environmental laws. That has been addressed in a manager's amendment here, as I understand it. And our nuclear weapons policy has not been fully faced in this first rule.

On the face, amendments made in order by this first rule seem uncontroversial. However, I do take issue with amendment No. 73. This is a mere 10-minute alleged technical amendment that literally corrects spelling errors. But tacked on to that is the amendment that changes the Endangered Species Act and the Marine Mammal Protection Act. Regardless how Members might feel about the substance, it is not only unacceptable; but, quite honestly, it is outrageous.

□ 1230

This is not the full debate that this House deserves on major policy changes. It is not right to cram changes to our environmental laws into technical amendments. It is not right to not make in order a major Democrat amendment on the environmental provisions, the Dingell-Rahall amendment, and not give us the full time and full debate. Ten minutes, that is all we are given.

I certainly hope, Mr. Speaker, that in the second look, the second rule, that the Committee on Rules must come forward with it, it will allow us to more fully debate and fully discuss all the issues that I have put forward to them in my testimony yesterday.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. HAYES), my neighbor and a member of the Committee on Armed Services.

(Mr. HAYES asked and was given permission to revise and extend his remarks.)

Mr. HAYES. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, today I rise in support of the rule that will allow for consideration of H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004.

The legislation we have crafted in the Committee on Armed Services is targeted at two of the most critical areas crucial to maintaining a healthy and robust military quality of life and readiness. For the soldiers and airmen in my district at Fort Bragg and Pope Air Force Base respectively, the ability to adequately care for their families and train for the mission for which they are called are the two issues second to none.

I believe this legislation makes significant progress in these areas and will enable our men and women in uniform to continue prosecuting the war on terrorism. A recent trip to Iraq served to strongly reinforce my existing pride in our Nation's war fighters. These brave men and women served with honor and distinction as they liberated a nation. Troops from the Eighth Congressional District of North Carolina have been at the very tip of the spear that ended the dark reign of Saddam Hussein and continue to lead the way in post-conflict resolution in Iraq and Afghanistan. These men and women deserve our support for this rule and the underlying bill.

This legislation takes care of our most vital asset, our people. It provides every service member with an average 4.1 percent pay raise. It also boosts military special pay and extends enlisted and reenlistment bonuses. It funds programs to improve living and working facilities on military installations.

The bill under consideration indicates we have come a long way since the procurement moratorium of the mid-1990s and are seeing the results of a restoration of national security funding in our victories in Iraq and Afghanistan.

I believe we must continue to provide adequate funding for our Nation's military. President Kennedy spent 9 percent of our gross domestic product on national defense. President Ronald Reagan 6 percent. The legislation today spends only 3.4 but is inching upwards; and with the security threats we face today, I believe we must continue moving upward with our defense allocations.

I would like to highlight two issues the National Defense Authorization Act addresses which are of particular concern to me. The first is domestic violence.

Last year, in the wake of several murders involving soldiers stationed at Fort Bragg, I requested the Committee on Armed Services to conduct a series of fact-finding meetings at Fort Bragg and in the Fayetteville community to examine the problem of domestic violence in the military. Working close with the community and the Defense Task Force on Domestic Violence, we have made progress in implementing their recommendations.

The bill before us provides a provision that allows chaplains to work more closely with military families and gives them the maximum flexibility to work with all family members to prevent potentially tragic situations. It also provides funding for travel and transportation for military dependents who are relocating for reasons of personal safety. It provides traditional compensation for victims and additional measures for implementation of the task force recommendations.

I commend the gentleman from California (Mr. HUNTER), the gentleman from Missouri (Mr. SKELTON), the gentleman from New York (Mr. MCHUGH), and the subcommittee for their leadership and attention to this matter and look forward to continuing their work to put an end to domestic violence.

The National Defense Authorization Act addresses another critical issue, that of fortifying the defense industrial base, ensuring that the DOD purchases products that are made in America. My two top priorities are national and economic security. There is seldom, if ever, a reason that these two goals should be considered mutually exclusive.

I have vowed to always work to protect and promote the U.S. manufacturing industry, and this is a perfect opportunity to do so. Strengthening the ''Buy American'' provisions is the right thing to do for our workers and soldiers. Protecting national security is important; economic security is important as well.

Mr. Speaker, we debated this bill for 25 hours, and we had a good debate. It is time to support this rule in the underlying rule that supports our men and women in uniform.

Mr. Speaker, today I rise in support of the rule that will allow for consideration of H.R. 1588, the National Defense Authorization Bill for Fiscal Year 2004. The legislation that we have crafted in the Armed Services Committee is targeted at two of the most critical areas crucial to maintaining a healthy and robust military—quality of life and readiness. For the soldiers and airmen in my district at Fort Bragg and Pope Air Force Base respectively, the ability to adequately care for their families and train for the mission for which they are called are the two issues that are second to none. I believe this legislation makes significant progress in these areas and will enable our men and women in uniform to continue prosecuting the war on terrorism. My recent trip to Iraq served to strongly reinforce my pride in our Nation's war fighters. These brave men and women served with honor and distinction as they liberated a nation. Troops from the 8th District of North Carolina have been at the very tip of the spear that ended the dark reign of Saddam Hussein and continue to lead the way in post conflict resolution in Iraq and Afghanistan. These men and women deserve our support for this rule and the underlying bill.

This legislation first and foremost takes care of our most vital asset of our military, our people. It provides every service member with an average 4.1 percent pay raise. It also boosts military special pay and extends enlisted and reenlistment bonuses. Furthermore, it funds programs to improve living and working facilities on military installations.

The bill under consideration today also indicates that we have come a long way since the procurement moratorium of the mid-1990s, and we are seeing results of the restoration of national security funding in our victories in Iraq and Afghanistan. I believe that we must continue to provide adaqaate funding for our Nation's military. President John F. Kennedy spent 9 percent of American's gross domestic product on defense. President Reagan spent six. The legislation in front of us today spends 3.4 percent and is inching upward. With the national security threats we face today, I believe we must continue moving upward in defense spending.

I would also like to take this opportunity to highlight two issues the National Defense Authorization Act for FY04 addresses that are of particular concern to me. The first is domestic violence. Last year, in the wake of several murders involving soldiers stationed at Fort Bragg, I requested that the Armed Services Committee conduct a series of fact-finding meetings at Fort Bragg and in the Fayetteville community to examine the problem of domestic violence in the military. Working closely with folks in the community and the Defense Task Force on Domestic Violence, we have made progress in implementing their recommendations. The bill before us today contains a provision that allows chaplains to work more closely with military families and gives them the maximum flexibility to work with all family members to prevent potentially tragic situations. It also provides funding for travel and transportation for military dependents who are relocating for reasons of personal safety. It provides transitional compensation for victims and additional measures for implementation of the Task Force recommendations. I commend Chairmen HUNTER and MCHUGH and the staff of the Total Force Subcommittee for their leadership and attention to this matter and look forward to continuing to work with them to end domestic violence.

The National Defense Authorization Act for 2004 also addresses another critical issue, that of fortifying the defense industrial base, ensuring that the Department of Defense purchases products that are made in America. My top two priorities are national security and economic security. There is seldom, if ever, a reason that these two goals should be considered mutually exclusive. I have vowed to always work to protect and promote the U.S. manufacturing industry and this is a perfect opportunity to do so. Strengthening the ''Buy American'' provisions is the right thing to do for our workers and our soldiers. Protecting our national security is important but it's just as important to protect our economic security here at home. I have worked hard with Chairman HUNTER to mandate more accountability on the specialty metals used in all of the components used in DoD projects, ensure that all of the parts of DoD uniforms come from domestic sources, and require the Secretary of Defense to notify Congress in writing of the factors that would ever lead to a decision to waive the domestic sourcing requirement. I am hopeful that our colleagues in the other body will recognize the need to protect U.S. jobs and work with us through the conference process.

Mr. Speaker, it is a gross injustice and misfortune that it took the tragedy on September 11th, 2001 to focus the public eye on the need for a more robust defense budget. But I feel that the legislation in front of us today will help our troops accomplish their mission and the Rule that provides for its consideration is fair and effective. We are establishing a clear and strong course to rebuild our Nation's defenses. I urge my colleagues to send a message loud and clear to our soldiers, sailors, airmen and marines—that we will strongly support you and give you the resources necessary to perform the mission at hand. I urge my colleagues to vote in favor of the rule and in favor of H.R. 1588, the National Defense Authorization Bill for Fiscal Year 2004.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of our House, who it appears was shut out of the process by the Committee on Rules last night.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, this is a bad rule. It should be defeated. My Republican colleagues have done the same thing that they usually do. They have gagged the minority. They have denied us a right to discuss important questions, and they refuse to give us the right to offer amendments.

The chairman of the Committee on Rules appears in the well of the House and tells us what a wonderful job they have done at being fair. If they were fair, they should have had the courage and decency on that side of the aisle to let us offer the amendments that should be offered to allow matters to be properly discussed.

This is the language of the Endangered Species Act. There is no need for them to take away the right of the government to properly protect our national symbol, the bald eagle, and other endangered species. There is no reason for the other side to afford the authorities that the leadership in the Department of Defense have sought. Indeed, the members of the agency itself, the fighting soldiers have not asked for and do not want it.

It is interesting to note that they not only amend the environmental laws, but they have amended many more, and they again foreclose the opportunity for amendments.

Now the chairman of the Committee on Rules comes down and says we are going to have more opportunities. We are going to be considering it again. Well, if we have to consider it again, why did they not offer us a fair rule in the first place? Why do they have to do it this way? They have basically a sound bill, but they have sought to change all manner of environmental laws, and they will put more on the floor if they are permitted to do so.

Indeed, one of the remarkable things that my Republican colleagues have sought to do is to change the Civil Service laws and to repeal, amongst other things, the laws against nepotism. Perhaps there is a little Cheney or a little Bush in the woods somewhere that needs a job, or perhaps a little Wolfowitz. There might even be a relative of the membership on that side of the aisle who happens to need employment.

We should address these issues properly. This is the People's House. We are supposed to discuss great national issues. We are supposed to, under the traditions and the practices of this body, to have the ability to discuss matters which the public thinks are important. Certainly the protection of conservation values, certainly the protection of Civil Service laws, certainly the protection of the values that all of us think are important enough to be discussed in this body and not strangled by the Committee on Rules when the chairman comes down and says, oh, we have been fair.

Well, if the gentleman from California has been fair, why in the name of common sense does he not have the goodness to allow us to have an opportunity simply to offer the amendment? Is it because my Republican colleagues are scared to death and afraid to permit an honest discussion, to have an honest application of the rules of the House with regard to the offering of amendments? Why are they so afraid on the other side of the aisle to have the truth brought forth and to offer a fair procedure?

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I rise in support of this rule because it makes a needed change. By including the Hefley amendment in the manager's amendment, we make a change narrowing the application of this DOD authorization bill on the environment just to DOD events alone. I think that is what the committee wanted to do originally. It is what the chairman of the Subcommittee on Readiness and the ranking member of the Subcommittee on Readiness support.

For those of us who are very strong supporters of the environment, we wanted this change made at the full committee, but because of jurisdictional reasons it was not made. By the manager's amendment including this, I think a change that the Committee on Armed Services wanted to have happen has happened. Now we are making the necessary modifications to the Endangered Species Act and the Marine Mammal Protection Act, as narrowly applied, to support the Department of Defense but not with broad application. To make this early in the process in the manager's amendment is the right decision by the Committee on Rules, and I urge adoption of the rule and commend the committee for making that decision.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I certainly associate myself with the comments the distinguished dean of the House, the gentleman from Michigan (Mr. DINGELL). Therefore, I also rise against this rule.

As many Members know, the underlying bill contains broad exemptions from the Endangered Species Act and the Marine Mammal Protection Act which go far beyond what the military requested. For those of who found that the DOD has provided little in the way of justification for its own proposals, these broad exemptions were extremely troublesome.

In fact, under the guise of maintaining national security and military readiness, H.R. 1588 would weaken the ESA to allow critical habitat designations which are necessary for the recovery of imperiled species to be done on a discretionary basis and to do so in all instances, not just as it may apply to the military. In fact, when it came to marine mammals, any nonmilitary, nongovernmental activity also would be covered by the weakened standards of this bill.

Let me be clear, H.R. 1588 goes far beyond what even the military requested. As far as what DOD requested for itself, we have had two recent GAO reports which found that the Pentagon has failed miserably to provide any compelling examples to verify their allegation that the ESA and the MMPA are undermining the training and readiness of our fighting forces. In Iraq, we watched on live television the overwhelming strength and bravery of our Armed Forces. We salute them for a job well done. There is no doubt they were well-prepared for battle, and they did it under existing law.

Further, we know that existing law already provides exemptions to all laws when national security is at stake. Yet the military has not even availed themselves of those exemptions in current law.

However, the gentleman from Michigan (Mr. DINGELL) and myself are reasonable people. We are strong supporters of our military. We on this side of the aisle, just as strongly as anybody in this Chamber, support our troops. We are proud of the great sacrifice our fighting men and women have made to protect our Nation.

As such, we submitted to the Committee on Rules an amendment which would have, first, limited the proposed revisions to the ESA and the MMPA contained in this legislation strictly to military activities. Second, we would have ensured that those revisions, while providing the military with some compliance flexibility, would not have diminished the letter and intent of the ESA and the MMPA.

This reasonable amendment was not made in order. Instead, buried within the text of what was supposed to be a technical manager's amendment by the chairman of the Committee on Armed Services, we find a sleight-of-hand trick is being played.

Yes, the Hunter amendment revises the broad ESA and MMPA exemptions contained in H.R. 1588. It limits these changes to the military, but it does not do so in the prudent, protective manner that was part and parcel of the Rahall-Dingell amendment.

Mr. Speaker, I suggest to my colleagues that we not be lulled into believing that the Hunter amendment would have accomplished what the Rahall-Dingell amendment would have. On process and substance, the Hunter amendment should be rejected. Therefore, I urge a no vote on the previous question; and if that fails, I urge a no vote on the rule.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN) for the purpose of a colloquy.

Mr. TAUZIN. Mr. Speaker, I rise to enter into a colloquy with the chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER).

It is my understanding that the bill before the House contains three sections that are largely based upon H.R. 2122, the Project BioShield Act which the Committee on Energy and Commerce ordered reported just last week; is that correct?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, the gentleman's understanding is correct.

Mr. TAUZIN. The Committee on Energy and Commerce worked in a bipartisan fashion at the request of the President to report a strong BioShield bill. We expect the bill to be on the floor very shortly. However, just this week I learned similar DOD provisions have been incorporated in the bill that may not be wholly consistent with our efforts in this area.

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We accomplished many of the gentleman's objectives in our bill. Because my committee will not have a chance to work its will on the gentleman's BioShield provisions, may I have his assurance that he will work with me as the bill heads to conference to ensure that any provisions agreed to there are properly drafted and not inconsistent with the President's proposed program?

Mr. HUNTER. Let me just say to my good colleague and the chairman of the Committee on Energy and Commerce and a guy who has a great dedication to the Armed Forces, we appreciate all his support and all of the hard work that his committee has done in this area. He has my assurance that we will work with him as this bill walks down through the process.

Mr. TAUZIN. I thank the chairman and look forward to working with him and the administration in ensuring that we properly implement the BioShield program and congratulate him and the committee for, again, a great effort in this bill to help secure our country and protect her.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Speaker, there were 99 amendments filed to the defense authorization bill. Nine were made in order: six for Republicans, three for Democrats. Among those not made in order was an amendment that I offered along with the gentleman from California (Mr. SCHIFF) which would simply have restored this bill so that the President's request for cooperative threat reduction, our efforts better known as Nunn-Lugar to get rid of Russian nuclear materials, chemical weapons and biological weapons, could be fully funded and fully expressed, freed of some encumbrances entered into the bill in the committee mark and allowed to go forward basically and only as the President has requested.

That is all we sought to do. But this is critically important because it addresses a particular facility in Russia called Schuch'ye which has maybe 75 percent of the deadliest chemical weapons, sarin and VX and other nerve agents, contained in Russia. We are right now at the threshold of beginning a project that would destroy those weapons, and this bill as now written without my amendment would hamstring and hinder the undertaking of that project.

Mr. Speaker, I have served in the Congress for 21 years, and all these years I have served on the House Armed Services Committee. I am the second ranking Democrat on the committee. I do not suggest that time served or rank necessarily entitles a Member to be heard on the floor, but when a Member has a serious and substantive provision, there should surely be some deference, some comity. We have always extended it in the past. In the 20 years I have served there, it has been done. I think it has been understood in the past if we are to have good policy, we have to have good debate on the House floor. And when you stiff-arm good proposals, worthy ideas, when you shut us out, you do not just diminish me, the individual Member who would offer the amendment, you diminish the House of Representatives. That is exactly what you are doing here.

My amendment is not as important as Nunn-Lugar, as the other amendments which have been addressed here, but it is important. We should have a right to be heard on this amendment, and we are diminishing the House. Every Member who respects this institution and has any sense of comity and fair play should vote against the previous question and against this rule.

Mr. MCGOVERN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, this is a very important bill that we are debating here today. Every Member of this body deserves to be heard. In the Committee on Rules yesterday, I urged that we have a free and open debate and that at a minimum on important issues like the environmental rollbacks and our worker protections and rights and our nuclear weapons that we have an opportunity to deliberate and offer amendments. Instead, the Republican leadership appears to be shutting the door on an open debate and it appears has denied outright amendments from distinguished Members like the gentleman from South Carolina (Mr. SPRATT), the gentleman from Michigan (Mr. DINGELL) and the gentleman from West Virginia (Mr. RAHALL).

The majority has an opportunity to try to repair some of the damage, and they can start with the Cooper/Van Hollen amendment. There are almost 700,000 civilian employees at the Department of Defense who serve this country proudly and patriotically. But with the stroke of a pen this bill will strip them of their most basic rights and protections.

This is a dangerous door that we are opening. We are clearing the way to allowing political and personal favoritism to enter our civilian workforce, which is precisely what our Civil Service system is designed to prevent. This is wrong.

I am sick and tired of those on the other side of the aisle messing around with the lives of American workers. The Republican leadership's arrogance and insensitivity to working Americans is astonishing. The Cooper/Van Hollen amendment would fix these offensive provisions and would reinstate the most basic worker rights and protections. We do not want our civil servants to look like some corrupt Third World dictatorship.

Chairman DREIER last night declared that he would prefer that the Democrats offer a different amendment. Well, that is not how this process is supposed to work. If Chairman DREIER believes so strongly in a different amendment, then he should go and offer it. But the gentleman from Tennessee (Mr. COOPER) and the gentleman from Maryland (Mr. VAN HOLLEN) followed the procedures set by the Committee on Rules. They have a good amendment, and it deserves a vote up or down.

We are sick and tired of being shut out of this debate in this House. The minority has rights, and we expect the Republican leadership to honor them. The Committee on Rules could do the right thing when it meets later today by making the Cooper/Van Hollen amendment in order for tomorrow's debate.

This is not a trivial matter. This is an amendment on one of the most significant provisions in the defense bill. Anyone who wants to vote against it can vote against it, but it deserves genuine debate. We deserve to have our voices heard, and we deserve a vote on this amendment.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, this rule is not in the finest traditions of this House. As it applies to Washington State, we have three icons in Washington State: the United States Navy, orca whales in the Puget Sound, and the Columbia River. All of them can live in perfect cohabitation if we come up with a rule that respects the values of all three. This rule does not allow this House to do that, because it seriously weakens the protections of the orca whales in the waters of the State of Washington. That is wrong. It is unnecessary. The bill that we will be considering without allowing an amendment proposed by Democrats would seriously strip the protection of orca whales in a way that is not necessary. We have proposed a way to protect both the strong U.S. Navy and a strong orca whale population.

In the Columbia River system, we are now allowing potential leachate from radioactive materials being buried in unlined trenches, and the majority has denied us an amendment to solve that problem to keep radioactive waste out of the Columbia River system.

The State of Washington says we ought to have a strong Navy, a strong orca whale and a strong Columbia River; and this rule does not allow any of those to take place.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, this budget is 13 percent higher than Cold War levels, with money for a missile defense system which does not work, money for previously prohibited research on low-yield nukes and $626 million for a space-based laser. From Star Wars to fear wars, this administration led this Nation into a war based on a pretext that Iraq was an imminent threat, which it was not. The Secretary of State presented pictures to the world he said was proof. Today, despite having total control in Iraq, none of the very serious claims made to this Congress, this Nation and the world have been substantiated.

Where are the weapons of mass destruction? Indeed, what was the basis for the war? We spent $400 billion for defense. Will we spend a minute to defend truth? The truth is that this administration led America into a war with such great urgency and still is refusing to account to the American people for the false and misleading statements which brought America into war. The American people gave up their health care, education and veterans benefits for this war. And for what? Answer the questions, Mr. President.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I thank my friend for yielding me this time.

This is a strong and good bill on which there are points of serious disagreement. One of those points of disagreement is the extent to which environmental protection laws should be rolled back in the case of military operations. Many of us on our side and some on the other believe they should not be rolled back as much. There are those on the majority side who believe that this is the right way to go. What we are asking for is a chance to debate that question and take a vote.

In this bill, there is a serious disagreement about the rollback of the civil protective rights of civilian workers in the Department of Defense. We believe it goes far too far. Many on the other side believe it is the right thing to do. All we are asking for is the right to debate that question and take a vote.

It is the supreme and bitter irony that the world's greatest fighting force that defends democracy around the world with great skill and in whom we take great pride, that the bill that funds that fighting force is not being pursued under basic democratic principles. Our military force defends democracy around the world, but we do not have democracy on the floor of the House of Representatives.

Vote ''no'' on this rule.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will call for a vote on the previous question, and I am going to urge Members to vote ''no'' on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will make in order the Rahall/Dingell amendment that was offered in the Committee on Rules last night and defeated on a straight party line vote.

Mr. Speaker, I am absolutely amazed that today the Republican leadership is throwing away the long-standing tradition of bipartisan cooperation in shaping our national defense policies. It is a very sad day indeed when something as important as defending our Nation takes a back seat to partisan politics. In fact, it is more than a sad day. It is shameful, and it is wrong.

This bill is supposed to be about protecting our Nation and providing the very best policies and tools to help our brave servicemen and women defend this great land. Instead, it is a vehicle for fulfilling ideological agendas, agendas that have no place in this critical debate.

I urge every Member of this House to vote ''no'' on the previous question. This vote is a matter of fair play. Whether or not a Member supports the Rahall/Dingell substitute, Members of this body should support the right of other Members to be heard. There is no rational reason why any Member of this body should be denied the right to register his or her opinion on the alternative position advocated by the gentleman from West Virginia (Mr. RAHALL) and the gentleman from Michigan (Mr. DINGELL) and many, many, many Members of this body.

I want to point out that a ''no'' vote will not stop the House taking up the Department of Defense authorization. However, voting ''yes'' is a vote to shut out alternative points of view, a point of view that happens to represent the views of millions of Americans. I stand firmly in my belief that ensuring a strong national defense is one of the most important duties I have as a Member of Congress. But I also stand firmly in my belief that the United States House of Representatives is supposed to be a representative body. It is not supposed to be an institution where the minority rights get shut out. Join with me to bring back some democracy in this institution by allowing the House to debate and vote on the Rahall/Dingell substitute.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question. Again, vote ''no'' on the previous question.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The material previously referred to by Mr. MCGOVERN is as follows:

PREVIOUS QUESTION FOR H. RES. 245—RULE ON H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

AMENDMENT TO H. RES. 245 OFFERED BY ____

At the end of the resolution, add the following:

''SEC. 4. Notwithstanding any other provision of this resolution, the amendment specified in section 5 shall be in order as though printed after the amendment numbered 1 in the report of the Committee on Rules if offered by Representative Rahall of West Virginia or a designee. That amendment shall be debatable for one hour equally divided and controlled by the proponent and an opponent. Section 2 shall not apply to the amendment numbered 1 or the amendment specified in section 5.

SEC. 5. The amendment referred to in section 4 is as follows:

Strike section 317 (page 59, line 16, through page 60, line 24) and insert the following new section:

SEC. 317. MILITARY READINESS AND CONSERVATION OF PROTECTED SPECIES.

(a) LIMITATION ON DESIGNATION OF CRITICAL HABITAT.—Section 4(a)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting ''(A)'' after ''(3)''; and

(3) by adding at the end the following:

''(B)(i) The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that—

''(I) the management activities identified in the plan, for the term of the plan, are likely to provide conservation benefits for the species within the lands or areas covered by the plan;

''(II) the plan provides assurances that adequate funding will be provided for the management activities identified in the plan for the term of the plan; and

''(III) the biological goals and objectives, monitoring provisions, and reporting requirements provide reasonable certainty that the implementation of the plan will be effective to achieve the identified conservation benefits.

''(ii) Nothing in this paragraph affects the requirement to consult under section 7(a)(2) with respect to an agency action (as that term is defined in that section).

''(iii) Nothing in this paragraph affects the obligation of the Department of Defense to comply with section 9, including the prohibition preventing extinction and taking of endangered species and threatened species.''.

(c) CONSIDERATION OF EFFECTS OF DESIGNATION OF CRITICAL HABITAT.—Section 4(b)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(2)) is amended by inserting ''the impact on national security,'' after ''the economic impact,''.

Strike section 318 (page 61, line 1, through page 64, line 7) and insert the following new section:

SEC. 318. MILITARY READINESS AND MARINE MAMMAL PROTECTION.

(a) DEFINITION OF HARASSMENT FOR MILITARY READINESS ACTIVITIES.—Section 3(18) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(18)) is amended by adding at the end the following new subparagraph:

''(D) In the case of a military readiness activity, the term 'harassment' means—

''(i) any act that has the potential to injure a marine mammal or marine mammal stock in the wild; or

''(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing meaningful disruption of biologically significant activities, including, but not limited to, migration, breeding, care of young, predator avoidance or defense, and feeding.''.

(b) EXEMPTION OF ACTIONS DURING WAR OR DECLARED NATIONAL EMERGENCY.—Section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by inserting after subsection (e) the following:

''(f) EXEMPTION OF ACTIONS DURING WAR OR DECLARED NATIONAL EMERGENCY.—(1) The President, during time of war or a declared national emergency, may exempt any action undertaken by the Department of Defense and its components from compliance with any requirement of this Act if the Secretary of Defense determines that such an exemption is necessary for reasons of national security.

''(2) An exemption granted under this subsection shall be effective for a period of not more than two years. Additional exemptions for periods not to exceed two years each may be granted for the same action upon the Secretary of Defense making a new determination that the exemption is necessary for reasons of national security. However, exemptions granted under this subsection shall terminate not more than 180 days after the end of the war or declared national emergency.

''(3) The President shall submit to the Congress, during the period of the war or national emergency, an annual report on all exemptions granted under this subsection, together with the reasons for granting such exemptions.''.

Strike section 319 (page 64, line 8, through page 65, line 15).

Mr. MCGOVERN. Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to rule XX, this 15-minute vote on ordering the previous question on House Resolution 245 will be followed by 5-minute votes on adopting the resolution, if ordered, and on questions previously postponed with respect to H.R. 1170 and H.R. 1911.

The vote was taken by electronic device, and there were—yeas 225, nays 203, not voting 6, as follows:

[Roll No. 201]

YEAS—225

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—203

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—6

Becerra
Cox
Gephardt
Levin
Sherwood
Simmons

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). The Chair would inform Members that they have 2 minutes remaining.

□ 1317

Messrs. JEFFERSON, ALEXANDER and POMEROY changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 200, not voting 10, as follows:

[Roll No. 202]

AYES—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—200

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel

Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—10

Becerra
Combest
Conyers
Gephardt
Hefley
Levin
Peterson (PA)
Sherwood
Simmons
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining to vote.

□ 1324

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CHILD MEDICATION SAFETY ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1170, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and pass the bill, H.R. 1170, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 425, nays 1, not voting 8, as follows:

[Roll No. 203]

YEAS—425

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Davis (CA)

NOT VOTING—8

Becerra
Gephardt
Levin
McInnis
Peterson (PA)
Simmons
Smith (NJ)
Spratt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). The Chair wishes to inform Members they have less than 2 minutes remaining on this vote.

□ 1331

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: ''A bill to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.''.

A motion to reconsider was laid on the table.

ENHANCING COOPERATION AND SHARING OF RESOURCES BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1911.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and pass the bill, H.R. 1911, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 8, as follows:

[Roll No. 204]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—8

Becerra
Bereuter
Gephardt
Levin
McInnis
Peterson (PA)
Sanchez, Linda T.
Simmons

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair would remind Members there are 2 minutes remaining in this vote.

□ 1342

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEVIN. Mr. Speaker, earlier today, I was unavoidably absent on congressional business when recorded votes were taken on four matters. Had I been present, I would have voted as follows: on rollcall 201, ordering the previous question on H. Res. 245, ''nay''; on rollcall 202, the rule for the Defense Authorization bill, ''nay''; on rollcall 203, the Child Medication Safety Act, ''yea''; and on rollcall 204, final passage of H.R. 1911, ''yea.''

RECOGNIZING 100TH ANNIVERSARY YEAR OF FOUNDING OF FORD MOTOR COMPANY

Mr. UPTON. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the resolution (H. Res. 100) recognizing the 100th anniversary year of the founding of the Ford Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a revolutionary industrial and global institution, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 100

Whereas on June 16, 1903, then 39 year old Henry Ford and 11 associates, armed with little cash, some tools, a few blueprints, and unbounded faith, submitted incorporation papers to Michigan's capital, Lansing, launching the Ford Motor Company;

Whereas Ford began operations in a leased, small converted wagon factory on a spur of the Michigan Central Railroad in Detroit;

Whereas the first commercial automobile to emerge from Ford was the original 8-horsepower, two-cylinder Model A vehicle in 1903, which was advertised as the ''Fordmobile'' and had a two speed transmission, 28 inch wheels with wooden spokes, and 3 inch tires;

Whereas between 1903 and 1908, Ford and his engineers went through 19 letters of the alphabet, creating Models A through S, with some of these cars being experimental models only and not available to the public;

Whereas on October 1, 1908, Ford introduced its ''universal car'', the Model T (sometimes affectionately called the ''Tin Lizzie''), which could be reconfigured by buyers to move cattle, haul freight, herd horses, and even mow lawns, and Ford produced 10,660 Model T vehicles its first year, an industry record;

Whereas, while in the early days all automakers built one car at a time, the idea of moving the work to the worker became a reality when parts, components, and 140 assemblers stationed at different intervals inaugurated the first moving assembly line at Ford in 1913, and a new era of industrial progress and growth began;

Whereas Henry Ford surprised the world in 1914 in setting Ford's minimum wage at $5.00 per an 8-hour day, which replaced the prior $2.34 wage for a 9-hour day and was a truly great social revolution for its time;

Whereas that same year, 1914, Henry Ford, with an eye to simplicity, efficiency, and affordability, ordered that the Model T use black paint exclusively because it dried faster than other colors, which meant more cars could be built daily at a lower cost, and Ford said the vehicle will be offered in ''any color so long as it is black'';

Whereas, upon its completion in 1925, Ford's self-contained Rouge Complex on the Rouge River encompassed diverse industries that allowed for the complete production of vehicles, from raw materials processing to final assembly, and was an icon of the 20th century and, with its current revitalization and redevelopment, will remain an icon in the 21st century;

Whereas, in 1925, the company built the first of 196 Ford Tri-Motor airplanes, nicknamed the ''Tin Goose'' and the ''Model T of the Air'';

Whereas consumer demand for more luxury and power pushed aside the Model A, and on March 9, 1932, the Ford car, with the pioneering Ford single V-8 engine block, rolled off the production line;

Whereas, while Ford offered only two models through 1937 (Ford and Lincoln), due to increased competition, the first Mercury was introduced in 1938, with a distinctive streamlined body style, a V-8 engine with more horsepower than a Ford, and hydraulic brakes, thus filling the void between the low-priced Ford and the high-priced Lincoln;

Whereas one of the largest labor unions in the Nation was formed as the United Automobile Workers (UAW) in 1935, and after a rather tumultuous beginning, won acceptance in the late 1930s by the auto industry and became a potent and forceful leader for auto workers, with Ford building a strong relationship with the union through its policies and programs;

Whereas by government decree all civilian auto production in the United States ceased on February 10, 1942, and Ford, under the control of the War Production Board, produced an extensive array of bombers, tanks, armored cars, amphibious craft, gliders, and other materials for the World War II war effort;

Whereas on September 21, 1945, Henry Ford II assumed the presidency of Ford and on April 7, 1947, Ford's founder, Henry Ford passed away;

Whereas a revitalized Ford met the postwar economic boom with Ford's famed F-Series trucks making their debut in 1948 for commercial and personal use, and the debut of the 1949 Ford sedan, with the first change in a Ford body since 1922, the first change in a chassis since 1932, and the first integration of body and fenders which would set the standard for auto design in the future;

Whereas these new models were followed by such well-known cars as the Mercury Turnpike Cruiser, the Ford Sunliner Convertible, the high performing Thunderbird, introduced in 1955, the Ford Galaxy, introduced in 1959, and the biggest success story of the 1960s, the Mustang, which has been a part of the American scene for almost 40 years;

Whereas the Thunderbird wowed the NASCAR circuit in 1959, winning more than 150 races in NASCAR's top division;

Whereas in 1953 President Dwight D. Eisenhower christened the new Ford Research and Engineering Center, which was a milestone in the company's dedication to automotive science and which houses some of the most modern facilities for automotive research;

Whereas Ford's innovation continued in the 1980s with the introduction of the Taurus, named the 1986 Car of the Year, which resulted in a new commitment to quality throughout Ford and future aerodynamic design trends in the industry;

Whereas this innovation continued in the 1990s with the debut in 1993 of the Ford Mondeo, European Car of the Year, the redesigned 1994 Mustang, and the introduction in 1990 of the Ford Explorer, which redefined the sports utility segment and remains the best selling SUV in the world;

Whereas as the 21st century begins, Ford continues its marvelous record for fine products with the best-selling car in the world, the Ford Focus, and the best-selling truck in the world, the Ford F-Series;

Whereas the Ford Motor Company is the world's second largest automaker, and includes Ford, Lincoln, Mercury, Aston Martin, Jaguar, Land Rover, Volvo, and Mazda, as well as other diversified subsidiaries in finance and other domestic and international business areas; and

Whereas on October 1, 2001, William Clay Ford, Jr., the great-grandson of Henry Ford, became Chairman and Chief Executive Officer of Ford, concentrating on the fundamentals that have powered Ford to greatness over the last century and made it a world-class auto and truck manufacturer, and that will propel it in the 21st century to develop even better products and innovations: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the truly wondrous achievements of the Ford Motor Company, as its employees, retirees, suppliers, dealers, its many customers, automotive enthusiasts, and friends worldwide, commemorate and celebrate its 100th anniversary milestone;

(2) recognizes the great impact that Ford has had on the lives of Americans and people of all nations; and

(3) congratulates the Ford Motor Company for this achievement and trusts that Ford will continue to have an even greater impact in the 21st century and beyond in providing innovative products that are affordable and environmentally sustainable, and that will enhance personal mobility for generations to come.

Mr. UPTON. Mr. Speaker, I rise today to recognize a milestone in American ingenuity, to honor the 100th anniversary of the founding of Ford Motor Company.

It was June 16, 1903, when 39-year-old Henry Ford and 11 associates, armed with little cash, some tools, a few blueprints, and unbridled faith, traveled to Lansing, MI to file papers launching Ford Motor Company. With just $28,000 in cash, the pioneering industrialists gave birth to what was to become one of the world's largest corporations.

As with most great enterprises, Ford Motor Company's beginnings were modest. The company had anxious moments in its infancy. The earliest record of a shipment is July 20, 1903, approximately 1 month after incorporation, to a Detroit physician.

Perhaps Ford Motor Company's single greatest contribution to automotive manufacturing was the moving assembly line. First implemented at the Highland Park plant in 1913, the new technique allowed individual workers to stay in one place and perform the same task repeatedly on multiple vehicles that passed by them. The line proved tremendously efficient, helping the company far surpass the production levels of their competitors—and making the vehicles more affordable.

Henry Ford insisted that the company's future lay in the production of affordable cars for a mass market. Beginning in 1903, the company began using the first 19 letters of the alphabet to name new cars. In 1908, the Model T was born. Nineteen years and 15 million Model T's later, Ford Motor Company was a giant industrial complex that spanned the globe.

From the Model T, to the T-Bird and Mustang, to today's Ford Focus, Ford Motor Company has been at the forefront of the automotive industry.

What started that momentous June day in 1903 by Henry Ford and his 11 associates has grown into a worldwide franchise over the last 100 years. Today, Ford Motor Company is a family of automotive brands consisting of Ford, Lincoln, Mercury, Mazda, Jaguar, Land Rover, Aston Martin, and Volvo.

Ford Motor Company is synonymous with American ingenuity. They are a very part of the American cultural fabric. It is as if both Ford and the country grew together during the 20th century.

Ford's contributions to the country have been great. They are a stalwart presence in the American economy, and they employ tens of thousands of Americans. For millions of Americans, Ford has become a part of our everyday lives. And the Ford Motor Company will continue to be a major presence on the American scene over the next 100 years.

Mr. DINGELL. Mr. Speaker, as a long-time supporter and friend of the automotive industry I would like to take this opportunity to recognize the 100th anniversary of Ford Motor Company. Ford Motor Company is the quintessential model of industrial growth and capitalism at work. Ford has not only been a significant part of the social, economic, and cultural heritage of the United States, but a revolutionary industrial and global institution.

On June 16, 1903, then 39-year-old Henry Ford and 11 associates, armed with little cash, some tools, a few blueprints, and unbounded faith, submitted incorporation papers to Michigan's capital in Lansing. For the next 5 years, young Henry Ford, first as chief engineer and later as president, directed an all-out development and production program which shifted in 1905 from the rented quarters on Detroit's Mack Avenue to a much larger building at Piquette and Beaubien streets. A total of 1,700 cars—the early Model A's—came sputtering out of the old wagon factory during the first 15 months of operation.

The Model T chugged into history on October 1, 1908. Henry Ford called it the ''universal car.'' It became the symbol of low-cost, reliable transportation that could get through when other cars stuck in the muddy roads. The Model T won the approval of millions of Americans, who affectionately dubbed it the ''Tin Lizzie.'' The first year's production of Model T's reached 10,660, breaking all records for the industry.

By the end of 1913, Ford Motor Company was producing half of all the automobiles in the United States. In order to keep ahead of the demand, Ford initiated mass production in the factory. Mr. Ford reasoned that with each worker remaining in one assigned place, with one specific task to do, the automobile would take shape more quickly as it moved from section to section and countless man-hours would be saved. The advent of the assembly line truly revolutionized industry.

Henry Ford startled the world yet again on January 5, 1914, by announcing that Ford Motor Company's minimum wage would be $5 a day—more than double the existing minimum rate. Mr. Ford felt that since it was now possible to build inexpensive cars in volume, more of them could be sold if employees could afford to buy them. Ford considered the payment of $5 for an 8-hour day the finest cost-cutting move he ever made. ''I can find methods of manufacturing that will make high wages,'' he said. ''If you cut wages, you just cut the number of your customers.''

The Model T started a rural revolution. The $5 day and the philosophy behind it started a social revolution. The moving assembly line started an industrial revolution.

The Model A was finally pushed aside by a consumer demand for even more luxury and

power. Ford Motor Company was ready with plenty of both in its next entry—its first V–8—which was introduced to the public on April 1, 1932. Ford was the first company in history to cast a V–8 block in one piece successfully. Experts told Mr. Ford it could not be done. It was many years before Ford's competitors learned how to mass-produce a reliable V–8. In the meantime, the Ford car and its powerful engine became a favorite of performance-minded Americans.

Ford Motor Company was only a year old when it inaugurated its foreign expansion program in 1904 with the opening of a modest plant in Walkerville, Ontario, named Ford Motor Company of Canada, Ltd.

Senior managers from Ford Motor Company's branches and subsidiaries around the world descended on company headquarters in Dearborn, MI, in June 1948 to attend the company's first-ever full international management meeting. After 45 years in business the automaker had a presence in nearly every corner of the globe.

Today, Ford has manufacturing, assembly or sales facilities in 30 countries worldwide. Ford produces millions of cars and trucks annually; it is a leader in automobile sales outside North America.

The focus of the 1960's was on youth. A young president Kennedy led an economically healthy, upbeat America. Ford Motor Company recognized a strong market demand for an inexpensive sporty new vehicle targeted to the young buyer. Lee Iacocca, then the General Manager of the Ford Division, personally sold the startling new concept to Henry Ford II and a skeptical finance department. Start-up costs were a mere $75 million due to the incorporation of the existing Falcon engine, transmission and axle, but the return investment would prove phenomenal. The Mustang exploded onto the scene in a 1964 introduction that drew throngs to showrooms across the country. Such intense interest had not been witnessed since the introduction of the Model A. The sharp, 4-seat 1965 Mustang became the ''darling'' of America. The ''love affair'' brought about the sale of 100,000 Mustangs in the first 100 days. Total sales for the year reached 418,812, far exceeding the 100,000 projected by market research. Ford's design innovation of the late 1950's led to the Mustang's record-setting first year sales and $1 billion in profits.

Today, Ford's plans for continued expansion domestically and overseas and the company's wide diversification mean ongoing employment opportunities, not only in my home state of Michigan and the other 49 states in America, but around the globe. The driving force behind the Ford Motor Company has been and continues to be producing better products at a lower cost.

Through years of prosperity and hardship, through war and peace, Ford Motor Company grew from one man, a small garage and a quadricycle, to a mighty American force contributing to international economic stability. Meanwhile the nation became an industrial giant of unmatched strength and vitality. The Ford story, in a sense, is the story of the American Century.

Mr. Speaker, as Ford Motor Company celebrates its 100th anniversary, I would ask that all my colleagues rise and salute the legend and automobile company that is Ford.

Mrs. NORTHUP. Mr. Speaker, I rise today to recognize Ford Motor Company's 100th anniversary. Throughout 2003, Ford Motor Company will celebrate 100 years of manufacturing automobiles. Ford's history is an integral part of America's rise to global economic prominence. I am very pleased that my hometown of Louisville, KY has played a key and long-standing role in that history.

In 1913, Ford began manufacturing Model T's in a small shop on South Third Street in Louisville. As our nation grew and met new challenges, Ford's Louisville operation also expanded. In 1942, Ford's Louisville operation began production of 44,000 trucks for the U.S. Army. During the fifties and sixties, Ford's Louisville presence expanded significantly with the construction and operation of two major manufacturing facilities. These facilities continue to produce high-quality trucks and sport utility vehicles which remain in great demand by the American public. In September of 2002, the Louisville Assembly Plant reached a historic milestone by producing the 5 millionth Ford Explorer.

Mr. Speaker, I also rise to recognize the hard work of Ford's 10,000 employees in Louisville. This hard-working team of professionals is a vital part of our community's economy. In addition to producing great products, they have set an example of generosity. In 2002, Ford Motor Company and its employees donated more than $2.5 million to Louisville community organizations.

I am very pleased that the House of Representatives has honored Ford Motor Company with Passage of H. Res. 100—a resolution recognizing the company's 100th anniversary. As a supporter of this legislation, I applaud its passage and commend the House for honoring Ford's contribution to American life.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. UPTON

Mr. UPTON. Mr. Speaker, I offer an amendment to the Preamble.

The Clerk read as follows:

Amendment to Preamble offered by Mr. UPTON:

Strike the preamble and insert:

Whereas, on June 16, 1903, then 39 year old Henry Ford and 11 associates, armed with little cash, some tools, a few blueprints, and unbounded faith, submitted incorporation papers to Michigan's capital, Lansing, launching the Ford Motor Company;

Whereas the Ford Motor Company began operations in a leased, small converted wagon factory on a spur of the Michigan Central Railroad in Detroit;

Whereas the first commercial automobile to emerge from the Ford Motor Company in 1903 was the original 8-horsepower, two-cylinder Model A vehicle with a two speed transmission, 28 inch wheels with wooden spokes, and 3 inch tires;

Whereas, between 1903 and 1908, Henry Ford and his engineers went through 19 letters of the alphabet, creating Models A through S, with some of these cars being experimental models only and not available to the public;

Whereas, on October 1, 1908, the Ford Motor Company introduced its ''universal car'', the Model T (sometimes affectionately called the ''Tin Lizzie''), which could be reconfigured by buyers to move cattle, haul freight, herd horses, and even mow lawns, and Ford produced 10,660 Model T vehicles its first year, an industry record;

Whereas the Ford Motor Company inaugurated the first automotive integrated assembly line in 1913, changing the old manner of building one car at a time through moving the work to the worker by having parts, components, and assemblers stationed at different intervals, and beginning a new era of industrial progress and growth;

Whereas Henry Ford surprised the world in 1914 by setting Ford's minimum wage at $5.00 per an 8-hour day, which replaced the prior $2.34 wage for a 9-hour day and was a truly great social revolution for its time;

Whereas that same year, 1914, Henry Ford, with an eye to simplicity, efficiency, and affordability, ordered that the Model T use black paint exclusively because it dried faster than other colors, which meant more cars could be built daily at a lower cost, and Ford said the vehicle will be offered in ''any color so long as it is black'';

Whereas Ford's self-contained Rouge Manufacturing Complex on the Rouge River encompassed diverse industries, including suppliers, that allowed for the complete production of vehicles, from raw materials processing to final assembly, was an icon of the 20th century, and, with its current revitalization and redevelopment, will remain an icon in the 21st century;

Whereas, in 1925, the company built the first of 199 Ford Tri-Motor airplanes, nicknamed the ''Tin Goose'' and the ''Model T of the Air'';

Whereas consumer demand for more luxury and power pushed aside the then current model, and on March 9, 1932, a Ford vehicle with the pioneering Ford V–8 engine block rolled off the production line;

Whereas, while Ford offered only two brands through 1937 (Ford and Lincoln), due to increased competition, the first Mercury was introduced in 1938, a car with a distinctive streamlined body style, a V–8 engine with more horsepower than a Ford, and hydraulic brakes, thus filling the void between the low-priced Ford and the high-priced Lincoln brands;

Whereas one of the largest labor unions in the Nation was formed as the United Automobile Workers (UAW) in 1935, and after a rather tumultuous beginning, won acceptance by the auto industry and became a potent and forceful leader for auto workers, with Ford building a strong relationship with the union through its policies and programs;

Whereas by government decree all civilian auto production in the United States ceased on February 10, 1942, and Ford, under the control of the War Production Board, produced an extensive array of tanks, B–24 aircraft, armored cars, amphibious craft, gliders, and other materials for the World War II war effort;

Whereas Ford dealers rallied to aid the Ford Motor Company in its postwar comeback, proving their merit as the public's main point of contact with the company;

Whereas, on September 21, 1945, Henry Ford II assumed the presidency of Ford and on April 7, 1947, Ford's founder, Henry Ford passed away;

Whereas a revitalized Ford met the postwar economic boom with Ford's famed F-Series trucks making their debut in 1948 for commercial and personal use, and the debut of the 1949 Ford sedan, with the first change in a chassis since 1932, and the first integration of body and fenders which would set the standard for auto design in the future;

Whereas these new models were followed by such well-known cars as the Mercury Turnpike Cruiser, the retractable hardtop convertible Ford Skyliner, the high performing Thunderbird, introduced in 1955, the Ford Galaxie, introduced in 1959, and the biggest success story of the 1960s, the Ford Mustang, which has been a part of the American scene for almost 40 years;

Whereas, in 1953, President Dwight D. Eisenhower christened the new Ford Research and Engineering Center, which was a milestone in the company's dedication to automotive science and which houses some of the most modern facilities for automotive research;

Whereas Ford's innovation continued through the 1980s with the introduction of the Ford Taurus, which was named the 1986 Motor Trend Car of the Year, and which resulted in future aerodynamic design trends throughout the industry;

Whereas this innovation continued through the 1990s with the debut in 1993 of the Ford Mondeo, European Car of the Year, the redesigned 1994 Ford Mustang, and the introduction in 1990 of the Ford Explorer, which defined the sports utility vehicle (SUV) segment and remains the best selling SUV in the world;

Whereas, as the 21st century begins, Ford continues its marvelous record for fine products with the best-selling car in the world, the Ford Focus, and the best-selling truck in the world, the Ford F-Series;

Whereas the Ford Motor Company is the world's second largest automaker, and includes Ford, Lincoln, Mercury, Aston Martin, Jaguar, Land Rover, Volvo, and Mazda automotive brands, as well as other diversified subsidiaries in finance and other domestic and international business areas; and

Whereas, on October 30, 2001, William Clay Ford, Jr., the great-grandson of Henry Ford, became Chairman and Chief Executive Officer of the Ford Motor Company, and as such is concentrating on the fundamentals that have powered the Ford Motor Company to greatness over the last century and made it a world-class auto and truck manufacturer, and that will continue to carry the company through the 21st century to develop even better products and innovations: Now, therefore, be it

Mr. UPTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the preamble be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Michigan (Mr. UPTON).

The amendment to the preamble was agreed to.

TITLE AMENDMENT OFFERED BY MR. UPTON

Mr. UPTON. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Mr. UPTON:

Amend the title so as to read: ''Resolution recognizing the 100th anniversary year of the founding of the Ford Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a revolutionary industrial and global institution, and congratulating the Ford Motor Company for its achievements.''.

The amendment to the title was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members have permission to revise and extend their remarks on H. Res. 100, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE SUPPLEMENTAL REPORT ON H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services have permission to file a supplemental report on the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

The SPEAKER pro tempore (Mr. SWEENEY). Pursuant to House Resolution 245 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1588.

The Chair designates the gentleman from Texas (Mr. BONILLA) as chairman of the Committee of the Whole, and requests the gentleman from New York (Mr. SWEENEY) to assume the chair temporarily.

□ 1346

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes, with Mr. SWEENEY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 60 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

We have an excellent defense bill before us today. We have learned a number of lessons from the conflict we just concluded in Iraq. I think the lessons of the last 15 years are that we must have in this country broad military capabilities, and that means we have got to be able to handle a conventional armored attack or conventional warfare. We must be able to handle guerilla warfare. We must be able, at the same time, to conduct the war against terrorism, and we have to prepare for the eventuality that ballistic missiles may at some point be launched against the United States.

Mr. Chairman, this bill addresses America's military issues. We address all of the issues that are brought up with respect to personnel. We have a 4.1 percent average pay increase in this bill. We have targeted bonuses where we have critical skills requirements and critical grade requirements. We provide for family housing. We do all the things that are important for people. At the same time, we modernize and we have more money for modernization than we have in years past, Mr. Chairman.

We have lots of old platforms. We know that our Army helicopters average 18.6 years of age. Two-thirds of the Naval aircraft are over 15 years. And if you go down the line you even come up with some antiquities. You come up with B–52 bombers, the youngest of which was built in 1962. So we have many years where modernization is required, and we have embarked on this first step of modernization with this bill that provides a little over $70 billion for modernization.

Mr. Chairman, we have learned lessons in Iraq, and this committee, which worked very hard, Democrats and Republicans on all of our subcommittees listened to our military after the operation in Iraq, and we asked them what their lessons learned were, what new systems, what new capabilities could we work on to give them even more effectiveness on the battlefield. They talked to us, and we have embedded some of these requests, Mr. Chairman, in this bill.

So this bill reflects not just recommendations from the administration over the last several years, but it reflects what war-fighting leaders need on the battlefields and what they have learned is required as a result of this most recent conflict. So this is a very up-to-date bill.

Mr. Chairman, we need a number of what I would call so-called enablers to continue to fight today's wars and also prepare for tomorrow's wars. We need airlifts. You have to have the ability to move that air bridge and move across that air bridge either from the United States to a military operation around the world, or to move from foreign-based troops, troops in Germany or other places, move them into the battlefields and not only move troops in but move equipment in and provide that bridge of tankers to be able to move strike aircraft in, long-range strike aircraft or short-range tactical aircraft which, combined with precision munitions, can hit those targets, whether it is an al Qaeda cave in Afghanistan or a leadership bunker in

Iraq or in some other part of the world. We have supplied more money for that very important area, Mr. Chairman.

We also need to bolster precision-guided munitions which have provided us with so much leverage in this operation. We do that here.

We also provide for more robust missile defense because we know that Scud missiles launched in a theater can paralyze our tactical airfields. Until we can take care of those airfields and bring people in and bring aircraft in, we know we have to have the ability to pull down Scud-class ballistic missiles and increasingly effective ballistic missiles that are actually more high-powered, more capable than Scuds. For that reason, Mr. Chairman, we have money in this bill for Patriot missile systems, for more procurement of our missile systems, so we can protect our troops in theater and project American power around the world. That is another enabler.

We also put money in for the deep strike program, Mr. Chairman. That is important. That will follow on and bolster this fleet of B–1s, B–2s and B–52s that carried the war to the enemy so effectively in this last theater.

So we do a number of things, Mr. Chairman, that will enable us to not only fight today's wars but also look beyond the horizon and will help us fight tomorrow's wars.

Let me tell you, Mr. Chairman, you will be listening to the reports of our subcommittee chairman and the ranking members of those subcommittees and you will see that this bill is a product of a lot of hard work, a lot of folks who sat in those chairs and listened not only to the daily briefings on the Iraq operation but listened very intently to our people in uniform when they told us what we are going to need to protect this country. Our folks have done a great job.

So, finally, let me commend our commander-in-chief, President Bush, for the blueprint that he laid out for us, for Secretary Rumsfeld, our military leaders, but, lastly, everybody who projected American power in this last conflict, who went out, right down to that 19-year-old kid carrying an M–16 trying to go through the choke point at Nasiriya in Iraq.

America's military team has performed brilliantly for us. Now it is time for us to perform for them.

I want to thank my ranking member, the gentleman from Missouri (Mr. SKELTON), for his great partnership in putting this bill together. We have had a few contentious moments and we may have a few more as we go through this bill. There are a few items that do not come up very often in the defense bill but will come up. But after the arm wrestling is over, Mr. Chairman, you will see a united Committee on Armed Services and hopefully a united House of Representatives standing tall behind the uniformed people in the United States military. So I am very grateful to the gentleman from Missouri (Mr. SKELTON) for his work.

I want to also say I am very grateful to our subcommittee chairman, the gentleman from Pennsylvania (Mr. WELDON), the gentleman from Colorado (Mr. HEFLEY), the gentleman from New Jersey (Mr. SAXTON), the gentleman from New York (Mr. MCHUGH), the gentleman from Alabama (Mr. EVERETT), and the gentleman from Maryland (Mr. BARTLETT), and also all of their ranking members on their subcommittees for the hard work they have put in.

Mr. Chairman, we will start presenting our subcommittee reports momentarily.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield my myself such time as I may consume.

Mr. Chairman, I rise in support of this Armed Services bill. I would like to first pay tribute to our chairman, the gentleman from California (Mr. HUNTER), if I may, for his sincerity, for his hard work, and for his determination in taking care of the troops and making sure that they have the right equipment and ammunition that they need to succeed on the battlefield.

We are so very, very proud of the young men and young women and the victory that they have brought about in the fields of battle in Iraq for several reasons; and a lot of it is tied right back to the work we have done on the Committee on Armed Services through the years.

The first is the high caliber of young men and young women that we have. They are professionals. They are dedicated and highly trained. The operation and maintenance dollars we have given towards training has paid off.

Secondly, the equipment that they have had. When you speak of the M–1, A–1 tanks, the Bradley fighting vehicles or the B–2 bombers or whatever, their equipment has been the very best available.

Number three is the ammunition they have had, the precise ammunition, the targeted ammunition they have. Whether you are speaking about a red dot on the target through a rifle at 300 meters or a JDAM bomb being dropped from a B–2 bomber at 40,000 feet that goes through a window of choice, all of that has contributed.

On top of that, it was interesting to note that the gentleman in charge of all of the British troops, Air Marshall Brian Burrage, gave tribute to the plans that came out of the American war colleges through this whole effort in Iraq. He said that the plans that were fulfilled in the Iraqi campaign will be studied in war colleges for decades to come.

The last reason we did so well and as a result of a lot of work in the Committee on Armed Services going back a number of years was the jointness that was apparently seamless between each of the services. All of that came about as a result of the work that we did on the Committee on Armed Services.

This bill, Mr. Chairman, is a good bill. As the chairman has noted, it does a lot of good things for the troops: the 4.1 percent average pay raise, the family housing, the medical care, all of this combined together does a great deal. The research and development that grows into future systems. The procurement of the weapons systems and ammunition that we provide for and authorize is so very important. The O&M, Operation and Maintenance, which allows not just keeping the lights on but allows for extensive training, whether it be at Fort Irwin or whether it be on a ship or on an airplane.

All of this is so very important to the uniformed services. We are very proud of them, every one of them. We salute them on their recent victory.

We are, as you know, compelled to remind ourselves sadly that we are in a war against terrorism and there will be great burden on the military forces as we proceed with this war against those terrorists of which we have learned so much.

But I must say, Mr. Chairman, that there are provisions in this bill that I wish that the Committee on Rules had allowed full and fair debate thereon. We still have one more rule to go, so I am hopeful that the Committee on Rules will allow some of these amendments to be made in order, such as the one involving Civil Service. I think it is very important that we have a full and fair debate on that. Cooperative threat reduction should be a very important issue that we should debate here, among others. The base closing issue should be one that we should at least have a debate on in this forum.

So with that exception, hoping that the Committee on Rules can reverse itself and help us have a more complete debate probably tomorrow as a result of the second rule that will be forthcoming from the Committee on Rules, I certainly hope we can continue that insistence.

□ 1400

Overall, this is a good bill. Whether it is a young sailor on a ship or whether it is a general directing an operation, all of them fare well as a result of the work, and hard work by this committee.

Again, let me thank Chairman HUNTER for his sincerity through all of this.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WELDON), the vice chairman of the committee, who is chairman of the Subcommittee on Tactical Air and Land Forces.

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, this bill is about America's patriots. This bill is about America's heroes. From Kabul to Baghdad, from Riyadh to Graznyy, our sons and

daughters are in harm's way doing a fantastic job, and we applaud them with this legislation.

But this bill is also about two other patriots. This bill is about the gentleman from California (Mr. HUNTER), and it is about the gentleman from Missouri (Mr. SKELTON), two great Americans, Mr. Chairman, who brought us together; two great Americans who worked us for 30 hours over 2 days in the most extensive markup that I have been involved in in 17 years in this body. And while there were some issues that were very tightly split, in the end only two Members out of 60 dissented. And as we have done in the past, we will work our will and our way today to come up with a bill that we can be proud of.

But I want to pay tribute, especially to DUNCAN HUNTER and IKE SKELTON for their leadership. They are both great Americans. They both served their country in military combat. They both understand as much as anyone else in this body what this bill is all about. It is an honor and a privilege for me to serve with both of them. And I know my colleagues on the Committee on Armed Services and in this body understand and appreciated the leadership of both of these outstanding individuals.

So this bill is about their leadership in helping us mold a bill that will provide the support for our patriots. In our subcommittee, the Subcommittee on Tactical Air and Land Forces, we increased funding, with the help of our two patriotic leaders, by almost $2 billion. And where do we put that money? We put $600 million of it into additional authorization for M1 tanks and Bradley Fighting Vehicles, because they did so well in the recent battles in Iraq. We put $200 million of extra money to maintain our ammunition industrial base, vitally important for our capabilities for the future.

On the F–22 program, we kept the authorized amount at the level requested by the Air Force and DOD; but we performed our legitimate role of oversight, and we said to the contractors in the Air Force, you are not making enough progress on the software for this vital aircraft; and until you do, we are going to fence a portion of this money. Because as stewards for the taxpayers, we must make sure that the money we spend is, in fact, spent in the most cost-effective way possible.

Mr. Chairman, we also put $1.7 billion in the legislation for the Future Combat System in transition of our Army, and we provided multiyear procurement for the E–2C and the F–18, as well as the C–130J.

Mr. Chairman, this bill will not be perfect to each one of us individually; but collectively, as we come together as 60 Members of the committee and 435 Members of the House, it is a bill that we all can support, a bill that would do what needs to be done to support those brave patriots who are today serving our Nation.

In addition, on some of the more contentious issues involving cooperative threat reduction and involving nuclear policy, the chairman and the ranking member have worked with us to craft some important additions in this bill. We, in fact, include in the bill the requirement of establishing a Strategic Nuclear Commission to look at what our nuclear posture should be over the next 20 years in a bipartisan approach. We have included language to find compromises on the way that we assist the former Soviet states in taking apart their weapons of mass destruction.

So, Mr. Chairman, I have no problem in supporting this legislation. There will be some amendments that will be offered that will be helping to perfect it even more. And in closing, besides thanking our two patriots, I want to thank my good friend and colleague, the gentleman from Hawaii (Mr. ABERCROMBIE). He is the ranking member of our subcommittee. He is an outstanding American. He has been involved in every aspect of the development of this portion of our bill. He is a quiet man, who never speaks his mind; but all of us love him because, in the end, we know that he means well by those soldiers, sailors, Marines, and corpsmen who this bill is written to support.

Mr. Chairman, I thank our colleagues and urge a ''yes'' vote on the bill and again thank our two leaders for their great work.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. TAYLOR), the ranking member on the Subcommittee on Projection Forces.

Mr. TAYLOR of Mississippi. Mr. Chairman, I regret that my Republican colleague, the gentleman from Maryland (Mr. BARTLETT), is not here, so I hope I do not steal his thunder. From the Subcommittee on Projection Forces, we have done a number of things for America's industrial base; but, more importantly, we have done a lot of good things for the men and women who serve our country. It is unconscionable to send them out to sea in old ships, old helicopters, and old planes. So we do take some steps to address those needs with this bill.

I regret that we really do not do enough. We are now down to a fleet of about 300 ships. And at the rate we are going, we are on our way to a fleet of 140 ships. Fleet age used to be about 30 years. We are now down to keeping them for about 20, and we are only putting 7 in the budget. So quick math tells you if you are going to build 7 ships a year, and only keep them for 20 years, you are down to a 140-ship fleet. I hope we can turn that around. We have not had much help from this administration. Quite frankly, we did not have much help from the previous administration. And I do think a navy is important for force projection, so I do think the Congress needs to pay more attention to that.

We authorized three DDG–51s, one LPD–17 advanced funding, two T–AKE ships, one Virginia-class submarine, which will be purchased with multiyear funds. The idea being that things are so expensive, things that take 4 or 5 years to build, we can go ahead and pay for them in four or five installments rather than one. Two SSBN to SSGN conversions. One LHD–8. $35 million for the Littoral Combat Ship, our next generation of small ships to operate in the Littoral zones around the world. One LCAC SLEP Program, Service Life Extension Program.

Additionally, we have authorized the money to replace about 333 Tomahawk missiles that were used up in the course of the most recent war, and about a $40 million increase to the production line so that they can be built quicker than they would have been. One C–17 for airlift, $229 million for aerial refueling, which gives the Pentagon the option to either purchase or lease those planes that we need. Long-range bombers. We add about $100 million for the next generation of the manned bomber, and we will see to it that a number of B–2s will be kept in the inventory that would have been expired.

So, again, we are not doing everything that I think any of us would like to do; and, quite frankly, I very much regret the Committee on Rules not allowing an amendment to be put on the floor so that every Member of this body could vote whether or not we are going to have another round of base closures. I think it is a particularly bad idea and a particularly bad idea when our Nation is at war.

I very much regret that the democratic process will not be given an opportunity to express itself. I hope the Committee on Rules will change their mind between now and tomorrow.

The CHAIRMAN. Does the gentleman from New Jersey (Mr. SAXTON) request unanimous consent to control the time on behalf of Chairman HUNTER?

Mr. SAXTON. I do, Mr. Chairman.

The CHAIRMAN. Without objection, the gentleman from New Jersey (Mr. SAXTON) is recognized.

There was no objection.

Mr. SAXTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. HEFLEY). This year, for the first time in the new subcommittee laydown, the chairman and the committee members decided to combine the Subcommittee on Readiness and the Subcommittee on Military Construction as part of the new configuration. The gentleman from Colorado (Mr. HEFLEY) has a committee report on this new subcommittee.

Mr. HEFLEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise today in strong support of H.R. 1588, the National Defense Authorization Act for fiscal year 2004.

We have all witnessed our military success in Afghanistan and Iraq and in the rest of the world. These successes are a tribute to the quality of our

servicemembers as well as to the importance of realistic and frequent military training. The act contains three environmental provisions that will ensure the military's continued ability to train in realistic scenarios without neglecting the military's commitment to be responsible environmental stewards. The act amends the Endangered Species Act, the Marine Mammal Protection Act, and reauthorizes the Sikes Act. I will speak to these environmental provisions as we go on during the course of the next few days when those subjects come up, but I think these are very important provisions.

H.R. 1588 also recognizes that the military services will face real challenges as personnel and equipment return home from the war. The level of effort necessary to resurge this equipment at our maintenance depots will be extraordinary. So the act recognizes this and adds funding to the key readiness depot accounts in order to take care of this problem. This act recommends an additional $680 million for active and reserve depot maintenance, an unprecedented but vital funding increase.

I am disappointed the military services have allowed funding to slip to an unacceptably low level during these times, and I hope the military services take advantage of the circumstances that have allowed the committee to add such a large increase and urge the Department to avoid getting itself into this situation in the future where such large increases from Congress are necessary.

This act also provides an additional $180 million for maintenance-related repair parts or flying hour spares to support readiness missions. This act also takes the unprecedented step of funding every unfunded requirement identified by the commandant of the United States Marine Corps.

In addition to readiness issues, I would like to address the Military Construction and Base Realignment and Closure, the BRAC, process. Once again, the Department's budget request for military construction and family housing fell far short of meeting the services' needs. To address some of the greatest readiness and quality-of-life shortfalls, H.R. 15888 includes $9.8 million in military construction and family housing, which is a real increase to the President's budget of more than $400 million.

H.R. 1588 also includes a number of commonsense improvements to existing base closure laws. First, H.R. 1588 establishes a force structure floor. U.S. forces are already under severe strain, and this provision would prevent further cuts that could further damage military readiness.

Second, the bill requires that the 2005 BRAC round result in a basing plan that is capable of supporting the base force, a modest but capable level of forces that was crafted immediately following the Cold War. In creating the basing plan, DOD would be required to assume a worst-case scenario in which no U.S. forces could be permanently stationed outside the United States. The act uses the base force, a slightly larger force than we have today, as the force baseline because it represents the level to which we might reasonably expect the United States military to surge to meet a future crisis or to change or a change in threats facing our Nation.

Finally, H.R. 1588 requires the Secretary of Defense to establish an ''early off'' list of military installations that are critical to our national defense. This list would include at least one-half of all U.S. installations and would spare many communities the worry and cost associated with the BRAC process by allowing their early removal from the list of facilities that the BRAC Commission may consider for closure. In other words, there are some bases that absolutely the Defense Department cannot do without. They know it. They know what these bases are. They know they are not going to be on the closure. For pity sake, get them off the list and spare these communities. And this amendment would do that.

H.R. 1588 will make real improvements in U.S. military readiness and ensure the continued strength of U.S. Armed Forces for years to come, and I urge my colleagues to join me in supporting this act.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MEEHAN), the ranking member of the Subcommittee on Terrorism, Unconventional Threats and Capabilities.

Mr. MEEHAN. Mr. Chairman, I thank the ranking member, the gentleman from Missouri (Mr. SKELTON), for yielding the time.

Mr. Chairman, I rise to speak on the Department of Defense authorization bill, and let me first of all say that I am concerned the technical corrections amendment aims to rewrite the Endangered Species Act and the Marine Mammal Protection Act, two critical environmental laws.

□ 1415

The House Committee on Armed Services marked this bill up in a session that lasted over 24 hours. We debated issue after issue, and we raised serious concerns about the Department's efforts to effectively eliminate the Civil Service system and to gut important environmental protections. While the debate certainly was contentious, it was an open debate.

Today we are faced with a much different scenario. Amendments to restore Civil Service protections and protect the environment were not made in order. A rewrite of major environmental laws was included in the manager's amendment. I did not get an opportunity to speak on the rule, but I believe strongly that the rule that was passed by this House makes a mockery of the deliberative process.

As the ranking member of the Subcommittee on Terrorism, Unconventional Threats and Capabilities, I believe the committee's work, the legislative product before us, is on the whole a solid proposal. At a time when our Nation's military is being called upon to make greater than normal sacrifices, this bill in my estimation represents a step in the right direction, for I have seen firsthand an example of this personal sacrifice in traveling around the world to Afghanistan and other places.

I recognize the importance of providing a truly bipartisan authorization package in order to maintain a second-to-none military. Towards this end, the Subcommittee on Terrorism, Unconventional Threats and Capabilities authorized increased spending on DARPA, chemical and biological defense measures, and at the Special Operations Command. I applaud the gentleman from New Jersey (Mr. SAXTON) for his leadership for the ultimate approval of these issues.

That said, I would like to address a few less-than-impressive measures contained in the portion of the bill that pertains to the Subcommittee on Terrorism, Unconventional Threats and Capabilities. For starters, this bill reduces funding for information technology or IT programs by as much as $2 billion to fund in some cases initiatives perhaps more suited for the conflict of yesterday rather than those of tomorrow.

I am particularly concerned about the nature of the proposed cut to the Navy-Marine Corps Internet. In my mind, the depth and breadth of the IT cuts represents a stunning recommendation, given that our military's complete transition into the information age is well under way.

Mr. Chairman, I sincerely hope that as this legislation moves forward that much work can be done in the conference committee, because, as of today, I believe this bill is a flawed bill, and I hope that we are open to operating, as we move further, in working with the conference committee to correct these flaws.

Mr. SAXTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004.

Last week, the Committee on Armed Services approved this bill by a vote of 58–2, continuing the committee's tradition of bipartisanship in addressing the defense needs of this Nation. The bill contains several initiatives that will aid the armed services and the Federal Government as a whole in the ongoing war against terrorism and contains several promising provisions which will help to transform the military services into the condition in which they need to be for the future.

I have the honor of chairing the first standing committee in this House devoted exclusively to defending from the terrorist threat, the Subcommittee on

Terrorism, Unconventional Threats and Capabilities. As many in this body know, I worked for many years toward the establishment of such a subcommittee, and I thank the gentleman from California (Mr. HUNTER) for his wisdom in bringing this idea to fruition.

I believe our subcommittee has already proven its worth, and we plan to do much more in the weeks and months to come.

The subcommittee's ranking member, the gentleman from Massachusetts (Mr. MEEHAN), and I have worked hard together to explore a multitude of ways to provide the Department of Defense with the capability to defeat and defend against terrorists at home as well as abroad.

I will be the first to acknowledge that we are off to a good start, but we have a long, long way to go before we are satisfied that we on this committee and in the Congress have done all we can to protect our country against the scourge of terrorism. There are many areas to address and so many good ideas abound that in some ways it is difficult to know where to concentrate our efforts. However, several enduring themes have appeared since the establishment of our subcommittee, all of which are addressed in some measure in this bill.

For example, we learned that the best way to fight terrorism is to keep terrorists as far from our shores as possible. I believe the Special Operations Command is our best weapon for this mission. This bill bolsters the bill's capabilities in several areas.

Let me just say this about the Special Operations Command. The defense of our country in the new war on terrorism is a many-fold type of defense, but for the purposes of this conversation, let me just separate it into two parts. The area of homeland security is important; and, to that end, this Congress and our government have established a new Department on Homeland Security. It is important. It works here within and close to the borders of the United States to put in place defensive measures as well as measures that will help us react properly should a terrorist attack occur.

The second part, and perhaps at least from my point of view an equally important part of the task, is the offensive and defensive capabilities offered to us through the Special Operations Command. In both Afghanistan and Iraq, an immense part of the effort went largely unnoticed by the American public. We embedded reporters, hundreds of them, within the ranks of our troops, and each day on television we could watch as we progressed in the desert.

A lady back home said, why did the American Department of Defense decide to put the Special Operations Command on television? I said, ma'am, we did not. You did not see what they did. But suffice it to say in this conversation, they were an extremely effective force that did a great deal. They are made up of Navy Seals, Army Rangers, Green Berets. There is an Air Force unit located at its permanent base here in Herbert Field in Texas, and we are standing up new Marine units to act in concert with the Special Forces groups.

This year we believe that they are so important that we are increasing the funding allotted for Special Forces by 33 percent, from about $4.3 billion to about $6 billion. This is important, and we recognize the wonderful job they have done. I will not go on to describe their methods of operation and the kinds of things that they do because it would in some ways perhaps inhibit their capabilities, but suffice it to say they are extremely important to today's war on terrorism.

In addition to the groups that I listed, there are some folks that do some other special kinds of jobs that are also in the Special Forces. Civil operations, for example. During a fight, is it important to try to bring along the people, the population within whom our Special Forces are working? Of course it is. We have civil operations units to do that. We also have communicators known as psychological operators who are part of the Special Forces, and they do a wonderful job in communicating messages to the people in the theater of operation.

Last week I had an opportunity to go to Walter Reed Hospital and visit some of our wounded soldiers. There were some special operators who had been wounded as well. They are great people, and to the person when I asked them what it is that they would wish most about their future, they said I would like to get out of this bed and go back to my unit. They are great people, and my hat is off to them for the great job they do under the leadership that we have provided them.

There are also emerging issues involving the role of the National Guard. We are working on these questions with the new Assistant Secretary of Defense for Homeland Defense and will involve the Department of Homeland Security and the National Guard in the resolution of these matters.

There is need for more and better and cheaper chemical and biological detectors and countermeasures of various sorts. To meet this need, we have established a chemical and biological initiative fund to allow promising ideas to compete for funding.

Mr. Chairman, I could go on for a long time and talk about the activities of the subcommittee and the things that we oversee. The gentleman from Massachusetts (Mr. MEEHAN) mentioned information technology which is critical. We are trying to get our arms around that.

I strongly encourage all Members to support H.R. 1588. This is an excellent bill that should receive the overwhelming support of this body.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. ORTIZ), the ranking member of the Subcommittee on Readiness.

(Mr. ORTIZ asked and was given permission to revise and extend his remarks.)

Mr. ORTIZ. Mr. Chairman, I rise in support of H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004.

I want to specifically address the provisions of the act relating to military readiness.

First, I thank my colleagues on the subcommittee and the full committee for the manner in which they participated in the business of the subcommittee this session.

I also want to express my appreciation to the gentleman from Colorado (Mr. HEFLEY) for his leadership and example in developing the readiness portion of the fiscal year 2004 National Defense Authorization Act. We were on an accelerated pace this session, and there were many issues that we were unable to address.

Additionally, this authorization act is based on a peacetime bill request from the administration that did not address many of the known reconstitution or post-conflict requirements. Our dedicated military and civilian personnel continue to do their part in protecting the security of this great Nation. We are obligated to do our part.

Mr. Chairman, while I am concerned that this act does not provide all that I would like to see in the direct readiness accounts, I am more distressed over the process.

First, there were issues that should have been addressed in the Subcommittee on Readiness that were presented during the full committee mark. I speak especially about the environmental provisions and the civilian personnel provisions that were inserted in the chairman's mark. Most troubling to me are the broad changes dismantling the safeguards in the civilian personnel system. Many of the changes are based on the homeland security model that has not been implemented yet. This bill would extend these experimental rollbacks to the more than 700,000 Department of Defense civilian employees who performed tremendously during Operation Enduring Freedom and Operation Iraqi Freedom, a performance that we acknowledge.

There is no doubt in my mind that additional changes are needed to the civilian personnel management system, but that does not include wholesale removal of safeguards that ensure access and fair treatment for those dedicated civilian personnel who, like their military colleagues, also serve.

Second, for the first time in my long tenure here in the House and on the Committee on Armed Services, I am concerned about the partisan nature of the committee and its deliberations during the mark. We have debated many contentious issues in the past, and I see no reason why I should believe that the future will be different,

but I trust that in the future we will remember that the legislative process is a consultative process in which compromise among the parties is key to crafting some policy that would have a lasting effect and that it can only take place in an environment where mutual respect and bipartisanship is the norm.

Mr. Chairman, I support this act and will vote for it. On balance, it is not a bad start. It contains a lot of things that I am convinced are needed to permit the Department of Defense to perform its national security mission, but I do not want us to forget that significant work still needs to be done.

I urge Members to support this bill.

□ 1430

Mr. SAXTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. EVERETT), chairman of the Subcommittee on Strategic Forces.

(Mr. EVERETT asked and was given permission to revise and extend his remarks.)

Mr. EVERETT. Mr. Chairman, the bill reported out by the committee supports the administration's objectives while making significant improvements to the budget request. The recent conflict in Iraq dramatically demonstrated the effectiveness of emerging military technologies and at the same time validated the requirement to sustain and upgrade the Legacy Force. The committee's report strikes a balance between future investments and near-term priorities.

In the area of missile defense, the committee's bipartisan recommendation provides the full $9.1 billion requested by the administration, but shifts $282 million from longer-term and less well-defined objectives to nearer-term priorities, particularly in the area of theater missile defense. Notably, it provides $20 million for improved Patriot IFF, identification, friend or foe, to address friendly fire incidents in Iraq. It also supports the President's program to achieve an initial defensive operational capability in fiscal year 2004 by expanding the Pacific missile defense test bed.

In the area of military space, the committee's recommendation accelerates the next generation of satellite communications and navigation capabilities which have so recently allowed our military forces to act with unprecedented speed and precision. It also provides additional funds for operationally responsive space launch to shorten launch preparation times from months and years to days and weeks. Given the increasing importance of space to both the United States and potential adversaries, the committee recommends increased funding for space surveillance activities. The committee's recommendation provides for the sustainment and life extension of our strategic nuclear deterrent, which will remain a cornerstone of our national security posture for years to come.

It provides the funds necessary to ensure the Nation's enduring stockpile remains safe and reliable even as the weapons in that stockpile age well beyond their designed service lives. The committee's recommendation also funds at the budget request several programs of special interest. Specifically, this includes the robust nuclear Earth penetrator, the advanced concepts initiative, and the enhanced test readiness program. The report also contains a provision that would repeal the prohibition on low yield nuclear weapons research. These actions will allow the defense nuclear complex to better respond to new and future military requirements.

To quickly shift gears to an issue close to my heart, I am pleased to say that the committee was able to include an additional $147 million for Army aviation training to fully fund the Army's Flight School XXI program. Flight School XXI incorporates a new training syllabus derived from lessons learned from Kosovo's Task Force Hawk. Aviation students were being sent to operational units undertrained. To address this dilemma, Flight School XXI provides students with more flying hours in their ''go to war'' aircraft and calls for greater utilization of modern, state-of-the-art training simulators. Improved pilot and crew training is needed, and I firmly believe that Flight School XXI will better prepare Army aviators for real-world flying situations.

I would also like to pay tribute to my ranking member, the gentleman from Texas (Mr. REYES), for the great work he has done on these complex issues and to both the majority and the minority staffs for their long hours and hard work they put in on the issues before the subcommittee.

Mr. Chairman, the committee's recommendation addresses administration objectives, Defense Department unfunded requirements, and Member priorities. I urge my colleagues to support this important legislation.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. REYES), the ranking member of the Subcommittee on Strategic Forces.

Mr. REYES. Mr. Chairman, I thank the gentleman for yielding me this time. I am proud to be here to rise in strong support of the National Defense Authorization Act. In doing so, I would like to thank the gentleman from California (Mr. HUNTER), the gentleman from Missouri (Mr. SKELTON), and in particular the gentleman from Alabama (Mr. EVERETT), chairman of the Subcommittee on Strategic Forces, and both staffs for their hard work and the great work they have done in order to report out of our subcommittee to the committee on issues that at times can be very contentious for all of us.

While I am concerned that this bill contains a few very dangerous provisions, especially related to civil service reform, I believe that this bill makes strides to help our men and women in uniform. This bill allows for an average pay raise of 4.1 percent for all personnel, reduces out-of-pocket expenses for housing, and eases the financial burdens when reservists are mobilized.

Mr. Chairman, I had the privilege of accompanying Chairman DAVID HOBSON and four other Members of Congress on a visit two weekends ago to the Middle East where we received briefings in Kuwait and Bahrain and Baghdad. I notice in the gallery we have got represented here members of all of our armed services who are watching with great interest the things that we do and the things that we say about this defense authorization bill here. I would like to share with you and with them in particular some of the comments that I heard from our men and women in uniform on that recent trip two weekends ago.

They were particularly proud of the job that they had done in winning this war in record time, with minimum losses; but they were not happy because they were asked to transition from war fighters to peacekeepers. That is one of the areas where I think we have a lot of work to do, Mr. Chairman, in terms of making sure that we are mindful of the role that our men and women in uniform play in terms of transitioning them from having just fought and won a war to the role of peacekeeper. Several times they made mention to me that they were happy to be involved in combat for this country, but they felt that their role as peacekeepers should be best done by somebody else. They mentioned the United Nations and other alternatives. They felt that being warriors they were not suited to become traffic cops immediately after a conflict. They did not have an interest in being city guards or maintainers of infrastructure or any of those kinds of things. Frankly, those are the kinds of issues that I hope as members of this committee and Members of Congress, we do a better job at doing this.

In conclusion, Mr. Chairman, these are the same men and women in uniform that later on in this authorization we are going to be talking about an amendment that would conceivably put them on the border as peacekeepers or law enforcement personnel. I hope that every Member of Congress remembers that these men and women have done us proud. Let us do them proud by keeping them focused on their role.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would remind Members to refrain from referencing occupants of the gallery.

Mr. SAXTON. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CALVERT), whose congressional district includes Camp Pendleton.

Mr. CALVERT. Mr. Chairman, I rise in strong support of H.R. 1588. As we have done in our recent successes with our fine troops, sailors, Marines, airmen, they have done a fantastic job. The reason they have done such a great job, Mr. Chairman, is because their success is dependent upon training.

The motto is ''train as you fight.'' I want to congratulate all of our people at all our military bases of the fine job that they do at managing those bases in spite of difficulties of increasing bureaucracies and restrictions to provide such training. In spite of that, they have done as good a job as they can. Not only have they succeeded in providing that training, but they have done a wonderful job in conserving our natural heritage.

In my own home State of California, Camp Pendleton, I cannot think of an area that has done a better job in preserving the heritage of Southern California. You can go down Highway 5 and look upon Camp Pendleton, a part of California that you do not see today. As a matter of fact, they have done such a fine job, the old motto goes, the other motto, ''no good deed goes unpunished,'' that many people try to restrict our Marines in training the way they fight. Right now of the many miles of beach front along Camp Pendleton, I believe it is close to 40 miles, only 500 yards can be used for training along that beach front. We have to make believe that there are foxholes there. We have to put these young Marines in buses and ship them to another location. They cannot train as they fight. We want to do just some modest modifications in this legislation which would allow our military, as I said, to train as they fight.

This is the right thing to do, Mr. Chairman. This is a good bill. This is going to provide the kind of training that those young men and women deserve. I would urge everyone to support this legislation.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), a member of the Committee on Armed Services.

Mr. EVANS. Mr. Chairman, this legislation is vital to continuing our military readiness to further the war on terrorism and provide for the defense of our homeland. This bill also gives our troops and their commanders the tools necessary for the 21st century warfighting. Further, this legislation strengthens our Armed Forces, which so aptly demonstrated their effectiveness and survivability in Iraq.

I was pleased to hear the previous speaker talk about Camp Pendleton. I am a former Marine. Camp Pendleton is important to the Marine Corps, and it is a key base that we have had for many, many years. I believe that even a modest increase in funding can help it immensely.

I urge my colleagues to support these efforts to help our Nation remain strong and free. I salute Chairman HUNTER and ranking member SKELTON and their staffs for their hard work on this legislation.

Mr. BARTLETT of Maryland. Mr. Chairman, I ask unanimous consent to manage the time of the chairman of the Committee on Armed Services.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BARTLETT of Maryland. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. MCKEON).

Mr. MCKEON. Mr. Chairman, I rise today in strong support of H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004. First and foremost, I would like to thank our troops, the troops of the United States Armed Forces, for their sacrifices and their outstanding work in Operation Iraqi Freedom, as well as in our ongoing fight in our war against terror. I also commend our Commander in Chief, President George W. Bush, for his leadership during recent operations, as well as in the rebuilding of a free Iraqi nation. I recognize Secretary of Defense Donald Rumsfeld for managing along with his team including Chairman of the Joint Chiefs General Ryan and Field Commander General Tommy Franks for managing our troops in a very successful military campaign and also Secretary Rumsfeld for his vision for the transformation of the U.S. military into a more powerful and more efficient military force. Finally, I express deep respect for my friend, House Armed Services Committee Chairman DUNCAN HUNTER, for his leadership in bringing this authorization bill to the floor. I appreciate his respect and his responsiveness to all of the members of the committee, along with our ranking member and his sidekick IKE SKELTON.

Mr. Chairman, the bill before us balances the need to address today's national security threats while preparing for tomorrow's challenges. It implements lessons learned from recent conflicts and addresses ongoing concerns by appropriately increasing funding for critical capabilities such as heavy armor, precision guided munitions, deep strike capability, airlift, and missile defense. H.R. 1588 incorporates needed policy, personnel, and procedural reforms at the Department of Defense, including modernizing the Department of Defense management system, which is imperative to national security and the retention and recruitment of civilian personnel.

Also, the bill addresses environmental concerns. While we must be responsible stewards of our environment, it is troubling when military officers return from operations and report that their ability to train for operations is far from ideal due to environmental issues affecting their mission profile. This legislation authorizes approximately $4 billion for environmental protection and cleanup programs while recommending a responsible set of initiatives intended to restore the balance between protecting the environment and military readiness.

Additionally, H.R. 1588 authorizes better pay and benefits for U.S. servicemembers by providing a 4.1 percent pay raise as well as an additional increase of allowances to cover the 96.5 percent of all housing costs. Finally, Mr. Chairman, the fiscal year DOD authorization bill is a courageous undertaking that strikes an appropriate balance between modernizing our existing forces and investing in next-generation capabilities that will empower the U.S. military and strengthen our national security. I strongly urge adoption of this legislation.

□ 1445

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. SNYDER), the ranking member on the Subcommittee on Total Force.

Mr. SNYDER. Mr. Chairman, I want to acknowledge the presence of our pages here today. I have a page from my district, Maggie Hobson, and their last day is June 6. So over the next couple of weeks if the Members have not said hello to them and thanked them, this would be a great time to do it.

I want to thank the gentleman from New York (Mr. MCHUGH), our subcommittee chairman, for his leadership in defense issues. It has been a pleasure working with him and other members of the Subcommittee on Total Force. I also want to thank the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), ranking member, for their continued leadership.

While I support and hope to support H.R. 1588 in its final form, the National Defense Authorization Act for Fiscal Year 2004, I am very disappointed in the manner in which this bill was brought to the floor. We have had many contentious issues come before the Congress on defense over the years, but we have usually approached these in a deliberate and thoughtful process which allowed for the consideration of many different viewpoints both for and against, helping develop a sound and thoughtful final product.

But the committee broke with that tradition this year and included provisions that made wholesale changes to current systems without benefit of thorough hearings or in-depth analysis of the information and proposals that were provided by the Department of Defense. Unfortunately, the decision to proceed on this path has distracted from the numerous very good provisions that were included that improved the quality of life for our military personnel, retirees, and their families: an average 4.1 percent pay raise, a reduction in out-of-pocket housing expenses, equity in certain reserve hazard pays, and improvements to the military healthcare system.

Mr. Chairman, there are items in this bill that are excellent, but there are also items in this bill that should have had greater thought and reflection. I hope that we will continue our efforts to improve and strengthen this bill on the floor over the next 2 days. We are all proud of our men and women and their service to our country. Surely we can produce a defense authorization bill that all of us, Americans all,

Democrats and Republicans, can be proud of.

The gentleman from California (Mr. HUNTER) in his opening statement talked about the professionalism of our military and how well they performed in Iraq, and I concur in his assessment, and he also said it is now our turn. But it is also our turn to work together, Americans all, on this product; and that has not occurred. I also hope after the conclusion of this bill that we will do a very good job of providing oversight in Iraq and Afghanistan because we must succeed in the peace in those two countries.

Mr. SKELTON. Mr. Chairman, may I inquire about the time remaining on each side, please.

The CHAIRMAN. The gentleman from Missouri (Mr. SKELTON) has 40 minutes remaining. The gentleman from Maryland (Mr. BARTLETT) has 27 minutes remaining.

Mr. BARTLETT of Maryland. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before proceeding, as chairman of the Subcommittee on Projection Forces, I believe it appropriate to first highlight the magnificent service rendered the Nation by the men and women serving in our Armed Forces all around the world. We have called upon them and continue to call upon them to be ready to make the ultimate sacrifice in their service to our Nation. They continue to meet every challenge with true dedication and commitment. We thank all of them for their service, and we thank all Americans for their steadfast support of our servicemen and women.

History has taught us that we achieve peace through strength. It is not easy to quickly grasp and apply the lessons from the ongoing war on terrorism and Operation Iraqi Freedom. The National Defense Authorization Act for Fiscal Year 2004 takes important steps to make our country more secure. It does so by strengthening our military's ability to project the force our Nation requires at almost a moment's notice anywhere in the world by sea and by air.

I am pleased to report that the National Defense Authorization Act for Fiscal Year 2004 increases the requested authorization for Department of Defense programs within the jurisdiction of the Subcommittee on Projection Forces by $1.8 billion to nearly $30 billion. Nearly $400 million of the additional authorization is for programs on the military service chiefs' unfunded requirements list.

Authorization is included for the administration's request of one *Virginia* class submarine, three DDG–51 destroyers, one LPD–17 amphibious assault ship, and two cargo and ammunition ships.

We have also taken several initiatives to begin to address shortfalls in important requirements of the Department of Defense. All of these programs are viewed as critical enablers in conducting operations of the type we have just concluded in Iraq. These programs include one additional C–17 aircraft for $182 million; an additional $20 million to sustain a force structure of 83 B–1's, 23 aircraft above the level planned; an airborne tanker initiative of $229 million that would give the Air Force the flexibility of retaining KC–135E aircraft, meeting unfunded requirements for depot maintenance for tanker aircraft, and/or preparing to, procure or lease KC–767 airborne tanker aircraft; an additional $376 million for Tomahawk missiles to increase our production capacity and procure missiles to meet the long-term inventory goal of the Navy; an additional $178 million for the Affordable Weapon, a relatively low-cost cruise missile; and an additional $100 million bomber R&D initiative for the next generation, follow-on stealth, deep strike bomber.

In addition, the recommended mark includes several important legislative proposals: first, a multiyear procurement authorization for Tomahawk missiles and *Virginia* class submarines; second, a limitation on C–5A aircraft retirement until a reliability and reengineering program completes testing and the results of which are reported to Congress; third, an electromagnetic gun initiative; fourth, a requirement that the Center for Naval Analysis initiate several independently conducted studies on potential future fleet architectures for the Navy; and, fifth, a transfer of authorization to advance procurement for LPD–17 should Congress enact appropriations for Tomahawk missiles for fiscal year 2003.

In conclusion, I would like to thank all of the members of the Subcommittee on Projection Forces and in particular the gentleman from Mississippi (Mr. TAYLOR), my very good friend. Every member of the subcommittee was diligent in their commitment and support to achieve the mission of strengthening our military. I would also like to thank the gentleman from California (Chairman HUNTER) for his leadership and the gentleman from Missouri (Mr. SKELTON), our ranking member. I thank them both. I would particularly like to thank the staff and particularly the staff director, Doug Roach. When one is a Member, one appreciates the staff. When one is a chairman, one really appreciates the staff. I thank them very much.

The National Defense Authorization Act for Fiscal Year 2004 is the product of a strong and cooperative bipartisan effort. I urge all of my colleagues to support the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. LARSON), who is not only a member of the Committee on Armed Services but is the ranking member of the Committee on House Administration.

Mr. LARSON of Connecticut. Mr. Chairman, I thank the gentleman from Missouri (Mr. SKELTON) for yielding me this time.

I applaud the efforts of the gentleman from Missouri, who has distinguished himself on this committee, along with the gentleman from California (Chairman HUNTER). I do rise, however, with strong reservation, as was already noted earlier today, about the environmental concerns, an issue with the Spratt amendment on cooperative threat reduction. Only recently on PBS we saw the documentary on avoiding Armageddon, and clearly we need that amendment to make sure that we are able to address this crucial and vital national security interest.

But my main objection stems from denying more than 750,000 workers their collective bargaining rights under civil service. The other body saw fit not to provide that in their proposal. I hope that through the rule or through discussion we are going to be able to alleviate that in our proposal as these deliberations go forward. As the gentlewoman from California (Ms. PELOSI), our leader, has often said, our troops deserve a bill that is worthy of their sacrifice. It is my sincere hope that through the continued efforts of these two fine gentlemen, both the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER), that allows us to be in a position in a bipartisan manner to support this bill.

Mr. BARTLETT of Maryland. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. GILCHREST), my colleague and very good friend, who is not on our committee but has a very important contribution to make to this debate.

Mr. GILCHREST. Mr. Chairman, I rise in strong support of H.R. 1588 and urge my colleagues to vote for it. I also rise, if I may, in support of all the young men and women who are serving in our Armed Forces. I also want to say that the gentleman from California (Chairman HUNTER); the gentleman from Missouri (Mr. SKELTON), ranking member; the gentleman from New Jersey (Mr. SAXTON); and certainly the gentleman from Maryland (Mr. BARTLETT) have brought a fine bill to the House floor.

I want to speak briefly to the environmental provisions in the bill here this afternoon. Some slightly unknown provision called the Sikes Act has been in effect since 1960 and has provided a means for our military to conserve fish and wildlife with the fish and wildlife agencies on 25 million acres of military land across this country; and for the most part they have done quite well, in some circumstances a magnificent job. It has been on this floor today alleged that we are going to change or degrade or reduce the effectiveness of the Endangered Species Act. This is not true. There is a provision in this bill that authorizes military facilities with cooperation of the Fish and Wildlife Service, with National Marine Fishery Service, and the fish and game agencies

of the States to create what is called a Natural Resource Management plan, and what that Natural Resource Management plan does, it can or it may replace ESA's critical habitat designation. This Integrated Natural Resource Management plan is actually more effective than the critical habitat as described in the Endangered Species Act because it is a holistic approach, it is an ecosystem approach to those problems which threaten an endangered species. It also integrates what the military does with off-site private land. This is an integrated approach. It is an approach that can be extremely effective and the criteria on which these Integrated Natural Resource Management plans are based are very specific criteria to ensure the protection and recovery of species. So this legislation improves the Endangered Species Act.

It has also been said that it is going to reduce the effectiveness of the Marine Mammal Protection Act under certain circumstances. This also is not true, and I understand the disagreement as to the language when one deals with what is harassing a marine mammal. What we have done across the board is to hold many hearings with the Department of Defense, with Fish and Wildlife, with the National Marine Fishery Service, with university scientists from as far afield as Hawaii, where we visited to look at marine mammals; Woodshole in Massachusetts, which we visited again to look at the problems with marine mammals.

When we implemented the change of the definition, we had two things in mind: the effectiveness of military training, which is critical; and enhanced protection for marine mammals and an understanding of how we as human beings coordinate our activities with the world's oceans. We took into consideration noise. We took into consideration resonance, decibels, variations in sonar. So in places in this legislation we are improving the process of understanding human activity in the ocean by protecting marine mammals and improving the quality of training for our military. So we have improved ESA. We have improved the Marine Mammal Protection Act. We have improved the Sikes Act provision which protects conservation on 25 million acres of land, and we have improved America's ability to train young people that go into harm's way. And I urge support on H.R. 1588.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), a member of the Committee on Armed Services.

Mr. LANGEVIN. Mr. Chairman, I thank the gentleman for yielding me this time.

As a member of the House Committee on Armed Services, I am very pleased to speak in support of this bill before us. I wish to thank the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), ranking member, for their outstanding leadership in crafting a bill that will provide for our military and the men and women who serve in it the resources they need to keep America strong in the 21st century.

I am pleased with the provisions of the legislation, particularly that demonstrate Congress's commitment to the role of submarines as an essential part of a strong naval fleet. The authorization of multiyear procurement for the *Virginia* class submarine will encourage more rapid and cost-effective production of this important system and give the United States Navy new capabilities to respond to future threats.

□ 1500

The people of Rhode Island have historically played an integral role in submarine production, and I am pleased that we will be a part of this important aspect of military transformation.

I remain concerned, however, with several controversial provisions of the measure that would undermine existing environmental and civil service protections. The Department of Defense's legislation recommendations delivered to Congress only shortly before the Committee on Armed Services began its markup requested changes to make its civilian employees more competitive and to enhance military readiness. Well, if the DOD wants assistance in these areas, then I believe it is our duty to work with them toward that important goal. However, their unprecedented effort to alter employment rules for 700,000 workers deserves no less than extensive and thoughtful discussion, which we, unfortunately, did not have.

Furthermore, the broad environmental exemptions in the bill exceed the needs of military readiness, and, unless amended, could pose a serious threat to mammals and endangered species.

Mr. Chairman, I hope that we will be able to address these problems during the upcoming amendment process so that all of my colleagues will be able to support this measure without reservation.

Mr. BARTLETT of Maryland. Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. COOPER), a member of the Committee on Armed Services.

Mr. COOPER. Mr. Chairman, I thank the chairman and the ranking member of the Committee on Armed Services for their overall fine work on this bill.

Due to the shortness of time, I would like to focus on one, unfortunately, negative aspect of the bill. It starts on page 349.

I would urge all of my colleagues not on the committee to pay particular attention to these sections, because they deal with the 750,000 Pentagon civilian employees, DOD employees, who are some of the finest civil servants in our Nation's history.

Remember, these are the employees who were attacked viciously on September 11, 2001, with the terrorist attack on the Pentagon. These are the employees who have served so skillfully and with such hard work and dedication that we honored them in our committee last week with a resolution commending them for their actions.

This section of the bill is one of the most radical and risky reforms undertaken in almost half a century; and, unfortunately, it is being undertaken with very little real consideration. The first draft of language was presented to Congress on April 29, just about 3 weeks ago. We had one hurried hearing. There was no subcommittee markup of this language; and no improving amendment was allowed in full committee, despite the great length of the markup at full committee.

Members should be aware of the radical changes that are undertaken by this language. I think we all in this House support our troops. I would hope that we also support the civilian workers in DOD who are supporting our troops every day.

What does this language do? Well, at best, it throws these careers into great uncertainty, and, at worst, it could harm the morale and throw them into a situation of favoritism and patronage.

We have an amendment that we are hoping the Committee on Rules will allow us to offer. This amendment would establish a DOD Civilian Employee Bill of Rights so that we could make it clear that we are in favor of flexibility in management in the Pentagon, that we are in favor of pay for performance, but we are also in favor of basic civil rights for our DOD employees.

This amendment, for example, makes it clear in plain English, which the text of the bill does not do, that employees at the Pentagon and DOD should be free from favoritism or discrimination. We preserve the veterans' preference. If veterans do not get preference as Pentagon employees, where on Earth can they get it?

We require the Pentagon to bargain in good faith. That language is nowhere in this bill. We preserve such things as hazardous duty and overtime pay for these workers. Why were these protections explicitly taken out of the language that is in this bill? We preserve the right to collective bargaining, a fundamental American right.

So, Mr. Chairman, it is important that House Members pay attention, and hopefully the Committee on Rules will allow our amendment to be made in order so this can be a fairer bill.

Mr. BARTLETT of Maryland. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. TURNER), an expert on civil service regulations, from Dayton, Ohio, the home of a great military base, Wright-Patterson, where there are a lot of civil servants.

Mr. TURNER of Ohio. Mr. Chairman, this bill is an important bill because it provides an opportunity for true reformation of the Department of Defense in its effort to go into the new century.

Certainly we have tremendous successes that we have seen through the Department of Defense and our civilian employees and our men and women in uniform. But the opportunity to always achieve more and to have greater efficiencies is there before us.

What we are doing in this bill in the area of the civil service is not something that is unknown or is speculative. It is based upon demonstration projects throughout the country, where civil service employees who have participated in it have found greater satisfaction, greater pay based on performance, greater retention of those employees who are contributing, a greater feeling that their work actually makes a difference with respect to their success and certainly the overall success of the Department of Defense.

There have been many things that have been said over the past debate concerning this that are just absolutely not true. There have been allegations that collective bargaining is not preserved in the bill, but in fact the bill specifically references collective bargaining, and on page 1118, lines 14 to 15 of the bill before the Committee on Armed Services specifically set out language requiring collective bargaining.

Similarly, the civil rights provisions are specifically provided in the bill, both by reference and by specific statement.

The allegations of nepotism are specifically not true. Section 9902(b)(3)(A) and (B) and also the incorporation of 5 USC 2302(b)(7) specifically prohibit nepotism.

Within the area of political patronage allegations, the bill specifically says that employees are protected against any actions based upon political affiliation. This is language in the bill.

What is interesting as we listen to the debate, as we listen to people that make allegations that say this bill is egregious in its impact to employees of the Department of Defense, their allegations really go to the extent that they would shock your conscience, if they were true.

But they are not true, because, in fact, in the committee 58 to 2 was the vote in the Committee on Armed Services, and the gentleman from Tennessee voted for the bill that includes all of these provisions.

Certainly, if all of these things were true, the gentleman from Tennessee and others would have found it in their conscience to try to defend them. But the reality is they are specifically included in the bill.

Veterans preferences are specifically identified and referenced in 5 U.S. 2302(b)(11). The Department of Defense has done a great job in making certain our veterans have access to the Department of Defense as part of the workforce.

The McHugh amendment in this provides for a grievance protection system in the civil service system.

In short, this bill provides the opportunity for the Department of Defense to look to the future, while protecting the rights of civil servants and actually giving them opportunities in known demonstration projects for greater achievement.

Mr. SKELTON. Mr. Chairman, I yield 30 seconds to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Chairman, the gentleman, my friend from Ohio, realizes that this bill is being rammed through Congress with an absolute minimum of discussion. The protections that the gentleman makes an effort to reference, such as collective bargaining, is not collective bargaining as the Nation understands it but collective bargaining as defined in that chapter in that bill, which really gives no definition. Ask folks who know about collective bargaining, and the gentleman will find that real collective bargaining rights are not preserved in the bill.

Mr. SKELTON. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Chairman, I have been working 23 years on civil service. I was very pleased to hear the observations of the gentleman, who has had 5 months experience here dealing with this issue.

I agree with the gentleman from Tennessee. The only reason to rush this to judgment is because they are unwilling to debate it fully and to have it open for amendment fully. If they had the courage of the gentleman from Ohio's assertions, they would not fear having this fully considered and debated. That is not the case though, I tell my friend.

Mr. Chairman, I hope we have an amendment. I hope we are able to discuss it fully, at which time we will be able to discuss his thoughts, as the gentleman indicated, which gives some rhetorical tip of the hat to those protections. But they ultimately will be in the discretion of the Secretary and the management at the Pentagon, not of the Congress or the President.

I would hope that the gentleman would review more closely his assertions and that perhaps we could discuss them at greater length at some time in the future.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentlewoman from Guam (Mr. BORDALLO), a member of the Committee on Armed Services.

Ms. BORDALLO. Mr. Chairman, as a member of the Committee on Armed Services, I rise in support of the bill before us.

Let me briefly highlight three provisions of which I am very proud.

First, the legislation increases the number of nominations to a military academy that a Delegate may have.

Second, the act authorizes a new 5-year pilot program for invasive species eradication on military installations in Guam.

Third, the legislation includes two military construction projects for Guam in fiscal year 2004. It authorizes $1.7 million for the construction of the Victor Wharf Fender System for our nuclear submarines, and it authorizes $25 million for the construction of a new medical and dental clinic at Anderson Air Force Base.

Much could be said, Mr. Chairman, as to the procedures by which contentious aspects of this legislation have appeared, such as the civil service provisions, but, nonetheless I am pleased that we have taken action to strengthen the defense of our Nation through this piece of legislation.

I would like to thank the gentleman from California (Chairman HUNTER) and the ranking member, the gentleman from Missouri (Mr. SKELTON), for managing this challenging process.

Mr. BARTLETT of Maryland. Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina (Mr. SPRATT), not only a member of the Committee on Armed Services but the ranking member on the Committee on the Budget.

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, we are going through what is basically a pro forma debate here, because this bill is off limits to serious debate. When you cannot offer an amendment you are only shadowboxing about the provisions of the bill, if you are not really putting in the well the issue itself and letting the House work its will on the bill, and that is the situation we have here.

We are seeing procedural devices employed by virtue of this rule which keep us from having substantive consideration for the most contentious parts of this bill.

This bill runs rough-shod over two major environmental laws. No recourse. This bill dis-establishes the civil service as we have known it for almost 100 years. Virtually no recourse on the floor. This bill takes a provision that the President of the United States requested for funding a very important project under the Nunn-Lugar Act, Cooperative Threat Reduction, in Shchuch'ye, Russia, where some 75 percent of the deadly chemical weapons in the arsenal of the former Soviet Union are stored in makeshift buildings with porous roofs under woeful conditions that, in my opinion, are security risks.

We have finally gotten everything together so we can move forward with a facility here. The funding is requested by the President of the United States to move forward with this facility. And guess what? We are right at the threshold of a significant undertaking that matters to our security and the rest of the world, and this bill hog-ties the

President's request, hamstrings everything that is carefully laid in place, so we cannot begin. We cannot use the money that the President has requested.

This bill takes $28 million out of that project and puts it in offensive arms elimination, which is fully funded. It then fences another $100 million until they can show us that every permit needed over the lifetime of the project is procured, which is an impossible hurdle to clear.

□ 1515

So that is what is at stake here. That project, in my opinion, is not as important as the substantive decision to disestablish the civil service, but it is important. It sets a model for how cooperative threat reduction will proceed in Russia. It is the single most important thing we are doing in that realm in terms of ridding that country of chemical weapons which could one day show up in our subways, on our streets, used by terrorists and rogue states against us.

But we will not be able to have a free, full, and fair debate about that because the rule that now prevails prevents us from doing that.

What I would say, Mr. Chairman, as one last plea, is that we need a rule that allows us to work the will of the House on this highly important bill. This bill will increase defense spending to $400 billion, makes major allocations within our budget. That is a $110 billion increase over the last 3 years.

On a matter of this gravity, of this importance, we need to have full and free and fair debate here in the well of the House. This should be America's forum, a crucible where we work out important issues like this. The rule they have adopted diminishes the stature of the House of Representatives.

Mr. Chairman, the rule governing today's debate on the fiscal year 2004 defense authorization act, we are told, is just part one of two. I hope that in part two we are allowed to debate an amendment I offered, together with ADAM SCHIFF, on behalf of scores of Members supportive of the President's request for Cooperative Threat Reduction.

When I testified at the Rules Committee yesterday, I filed and sought consideration of only one amendment, which I offered with Representative SCHIFF, who has been active on these issues. I can describe our amendment in very simple terms: it seeks to restore the President's request for the fiscal year 2004 program. Let me elaborate.

The President's request for the Department of Defense Cooperative Threat Reduction (CTR) program from fiscal year 2004 totaled $450.8 million, and the Armed Services Committee authorized that amount. But don't be fooled: the committee bill makes substantial changes to the President's request for CTR.

First, the committee bill transfers $28.8 million from chemical weapons destruction activities in Russia—work at the Shchuch'ye facility—to strategic offensive arms elimination. The cut of nearly $30 million from the Schchuch'ye project will slow construction of this critically needed facility and postpone the day we begin to destroy chemical weapons there. My amendment restores these funds to Shchuch'ye leaving funds for both strategic offensive arms elimination and Shchuch'ye at the requested level.

Shchuch'ye represents a wake up call as to urgency of the problem of proliferable chemical weapons. In a building that is little more than a fortified barn, chemical munitions are lined up like wine bottles.

Shchuch'ye is home to a majority of Russia's weaponized stocks of nerve gas and sarin. While security there has been upgraded by the CTR program, the munitions at Shchuch'ye remain portable, and the security almost certainly penetrable. None of us that visited left without believing the United States should accelerate the destruction of these munitions, and I was pleased to see the President recommended exactly this course in his fiscal year 2004 request.

At Shchuch'ye, the United States has complete access to a critical WMD storage site, where some of the deadliest and most portable chemical munitions in the world are housed with minimal security, and the Russians are saying, come on, we'll work with you to build a facility to destroy the weapons. The bottom line is this: the chemical weapons stored at Shchuch'ye represent a critical threat to U.S. security, and a cut to the President's request for this project is both unwise and unwarranted.

My amendment also strikes several new restrictions imposed on the CTR program by the committee bill, found in sections 1303 through 1307.

In section 1303, the Chairmans' mark creates an impossible hurdle for the work at Shchuch'ye or any other CTR project, by requiring that all permits ever needed over the lifespan of a CTR project be presented to Congress before more than 35 percent of the cost of the project can be obligated. There is literally no way for a planner or program manager to reliably envision each and every permit that might ever be needed to complete that project. Yet the committee mark says funding for any project, new or incomplete, stops at 35 percent of total cost until every permit is not only identified, but obtained. Our amendment restores the President's request by striking section 1303 and replacing it with a common sense proposal.

I agree with Chairman HUNTER that the Department of Defense needs to do a better job planning for the uncertainties that come with doing business in Russia. DOD testified on March 4 to the Armed Services Committee that they have taken specific measures to address the issue. Assistant Secretary J.D. Crouch told the committee DOD has ''instituted a program of semi-annual executive reviews with Russia to re-validate project plans, assumptions, and schedules on a regular basis,'' and noted that OSD has asked the DOD inspector general to review how CTR is organized, more broadly. The first phase of the IG review is already complete.

That said, I understand that Congress needs visibility into potential problems, like the one at Votkinsk, and I have a proposal that will give us just that. My amendment would require annual notice to Congress of all permits ''expected to be required'' for completion of a project, and an annual status report on DOD efforts to obtain them. To ensure we get this information annually, with the budget submission, only 35 percent of funds for CTR projects would be available each year until DOD submits the report. This information will enable Congress to make wise decisions about specific CTR programs, without grinding important work to a halt, and is in keeping with the administration's request to Congress.

Section 1304 of the bill adds another new restriction: it requires on-site managers at any Department of Energy nonproliferation project in the former Soviet Union. The administration opposes the requirement, and has noted that the cost, both in dollars and in diplomatic capital, of such a requirement could be prohibitive. In fact, DOE has noted that it already has strong oversight of its program activities in place, which includes frequent visits to sites, stringent contract access and work-performance requirements, and close cooperation with the U.S. Embassy and DOE Moscow Embassy Office.

Section 1305 of the bill is not a fence, but it would undo an important administration request that the DOD be allowed to spend up to $50 million in prior year unobligated balances on WMD destruction outside the FSU, if such work becomes necessary. The committee bill mandates that if any such work is to be done, it be done by the State Department, with funds transferred from DOD to State. This is misguided policy, at odds with both the administration's request and a bipartisan effort last year to create such authority. Our amendment strikes section 1305 and restores the President's request.

Another fence can be found in section 1306, which establishes new requirements for any work at biological weapons sites. The administration did not request oversight at this point, and new restrictions will likely only slow progress.

Finally, section 1307(b) fences $100 million of the President's request for chemical weapons destruction at Shchuch'ye—that is, of what's left after the $29 million cut in the base bill—until Russia, or some other nation, puts up one-third of the total cost of the project. But our agreements with Russia for construction at Shchuch'ye require no such percentage-based contribution. Our agreement specifies a functional division of labor: Russia builds the infrastructure needed to manufacture a city next to nowhere in the Urals; we construct the chemical weapons destruction facility.

According to DOD, Russia is meeting its financial obligation at Shchuch'ye, and further, is contributing a significant resources elsewhere to destroy other chemical munitions, including blister agents no housed at Shchuch'ye. The Congress already gets regular updates on funding and international contributions to Shchuch'ye. And the administration testified earlier this year before this committee that it does not need new oversight measures. Now, with Russia on board and the administration asking to accelerate work at the facility, is not the time to add new and unwarranted hurdle.

Let me just conclude by saying again, the intent of our amendment is simply to uphold the administration's request. In terms of policy and funding, that is what the amendment does, with the modest exception the accountability provision I mentioned, which should equip Congress a good tool to enhance its already vigorous oversight of these programs.

This amendment should win bipartisan support, and I hope rule No. 2 for this defense bill

will make the Spratt-Schiff amendment in order.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. RYAN), a member of the Committee on Armed Services.

(Mr. RYAN of Ohio asked and was given permission to revise and extend his remarks.)

Mr. RYAN of Ohio. Mr. Chairman, I thank the gentleman from Missouri for yielding to me, and I thank the gentleman for his fine leadership, especially on the ''Buy American'' provisions that are in this bill that we have strengthened, and also the gentleman from Illinois (Chairman Manzullo) from the Committee on Small Business, and the gentleman from Ohio (Mr. HOBSON), as well, the gentleman from Missouri (Mr. SKELTON), for all their help strengthening the ''Buy American'' provision.

This is really not a Democrat or Republican thing; this is a shift from the United States Congress to the executive branch to make major decisions.

Nobody came before the people to say it was okay. We are losing. The right to receive a veterans' preference is gone. The right to be free from discrimination based upon political opinion is gone. The right to overtime pay is gone. The right to collective bargaining rights is gone. The right to due process, gone; the right to an attorney if you are fired inappropriately, gone.

We just won a war in less than 100 days. This is the thanks we give these people. We want flexibility. We understand the new global order and we want to help. We should pass a bill of rights, which the gentleman from Tennessee (Mr. COOPER) has been pushing. We should pass it, not because we are going to protect the Constitution, not because it is a Democratic thing, but because these ladies and gentlemen in the Department of Defense deserve it.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the distinguished gentleman from Missouri for yielding time to me. I thank him for his hard work on this bill, which I find for the most part unexceptional.

My amendment essentially from the Committee on Government Reform preserving certain appeal rights for Department of Defense civil servants, has been included in this bill. My concern is that the Committee on Armed Services had thrust upon it an area that should not be in that bill. Yet they said to deal with it, because that is the way the rule works, involving the civil service.

What essentially happens in this bill is the establishment of a new and separate personnel system without basic civil service protection or collective bargaining rights for Department of Defense employees. It is the first time we have separated out any civilian employees in this way in 100 years. We have taken OPM out of it, even though they are the only organization with expertise in civil service.

Of course, there are some stated collective bargaining and civil service rights here, but they are all waivable. They are either waived or waivable. We have somehow decided to reform the personnel system for DOD before we reform military DOD itself. It mars this bill. I hope somehow we are able to fix it.

Mr. SKELTON. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. SCOTT), a member of the Committee on Financial Services.

Mr. SCOTT of Georgia. Mr. Chairman, I thank the gentleman for yielding time to me. I am delighted to be here. I want to certainly extend my commendations to the Committee on Armed Services. This is a very important bill, and I rise to support this measure wholeheartedly and very strongly.

In my district of Georgia, I represent Fort McPherson and I also represent Fort Gillam, two very critical bases that play an important role.

We need to pass this measure as a strong, strong vindication and a way of showing great appreciation to members of our Armed Forces, who put their lives on the line and brought victory in Iraq. But also, as we look ahead into the future, we see a time and we see issues developing of unknown certainty.

Let nobody misunderstand: we want the world to know that the United States of America is going to and must always have the foremost and strongest military presence in the world. This bill, H.R. 1588, goes a long measure to doing that.

Also, Mr. Chairman, as one of those strong supporters of this measure, I do want to call attention to this issue of civil service, where we are taking away the collective bargaining and employment rights of 700,000 employees.

The issue here is not whether we do it or not, but the issue is, in this legislative body, is it not our function to ask the questions? This should not be done in the quiet of night in a back room. We are affecting employees, defense employees in this country. We need to ask the question why. Is it needed? Is it a matter of national security that we allow changes for the Pentagon civilian personnel system to allow the Secretary of Defense to strip from the Department of Defense employees their most basic workers' rights, including collective bargaining, due process, appeal rights, and the annual congressional pay raise?

These are very important questions. All we ask for is the opportunity to do our job as Congressmen and Congresswomen, to ask the questions, and to get the answers. If this is a measure that must be passed, then we will do so.

Mr. BARTLETT of Maryland. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. TURNER).

Mr. Chairman, the thinnest sheet of paper has two sides, and I yield to the gentleman for a look at the other side of this sheet of paper.

Mr. TURNER of Ohio. Mr. Chairman, it is interesting, hearing the debate about this bill, and the issues and opportunities for debate on the issues and input for amendments.

I serve on the Committee on Government Reform and the Committee on Armed Services, which this bill went through. We had over 10 hours of committee debate, including consideration of numerous amendments, and 20 hours on the Committee on Armed Services, including numerous amendments.

Clearly, we had a full and exhaustive discussion. No back-room discussions here. This was out in the open, with full participation and full airing of the amendments that were presented.

One thing we know is that the need for this is evident in some of the circumstances that we currently have in the Department of Defense. Members can look at some of the experiences that have occurred.

It took the American Federation of Government Employees and the Air Force 10 years to bargain over day care centers. Bargaining disputes led to an arbitration hearing, two appeals to the Federal Labor Relations Authority, two court challenges, a petition to the Supreme Court, a Court of Claims case, a decision by the Comptroller General, and $750,000.

Similarly, a case in St. Louis over an annual employee picnic took 6 years and $275,000.

A dispute over an agency's decision to close its facilities over a holiday weekend and require employees to use 1 day of leave took 8 years to resolve.

These are not issues that should be addressed at the expense of national security. Other agencies have similar flexibilities that we are providing to the Department of Defense, the CIA, the DIA, the NSA, NIMA, TSA, FAA, IRS, Foreign Service, and the GAO.

The Department of Homeland Security has many of the same flexibilities, including equally broad labor-management flexibility.

What is really important, and the allegations of what this is doing to employees are not true, the basic rights of employees are protected. Collective bargaining is specifically mentioned in the bill and is a right granted to the employees, both on a national and local level.

Civil rights are specifically protected and are referenced in 9902(b)(3)(c), and also the ability to have an appeals process. The McHugh amendment provided for an appeals process so grievances and disputes can be heard. The bill protects employees' rights, at the same time providing the flexibility we need as we move into the next century.

Mr. SKELTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Chairman, I thank my colleague for yielding time to me.

As we have heard, tucked into this bill, Mr. Chairman, which is so important to our national defense, is a provision that I believe could have long-term negative consequences for our military readiness and effectiveness. It is a provision that will rewrite the rules for 700,000 civil service employees in the Department of Defense.

Mr. Chairman, in our committee, the Committee on Government Reform, when the representatives from the Department of Defense came to testify, they made it clear that our military success in Iraq was the result of a team effort, a team effort between the military and between the civil servants within the Department of Defense that provided them the support. It was a true partnership.

Yet, just a few weeks after our military success in Iraq, the Pentagon launched what can only be described as a sneak, surprise attack on the rights of those civil servants within the Department of Defense. It is very ironic that just a few weeks after this body passed legislation endorsing the good work of public employees, that we would take this action that treats them so unfairly.

Mr. Chairman, there has been an amendment proposed that would strip these provisions or change these provisions in the bill. It should be a bipartisan amendment, it should be a nonpartisan amendment, because otherwise what this bill does is gives the Secretary of Defense, not just this Secretary but any Secretary of Defense, Republican or Democrat down the road, the unchecked authority to rewrite the rules for civil servants within the Department of Defense, the rules with respect to hiring, firing, pay, bonuses.

It will greatly damage our security if we open the Department of Defense to party politics. We want a personnel system that rewards people based on merit, not based on political favoritism. We want, for example, our procurement officers to be looking out for the public interest, to be looking out for our national interests, not the interests of the most politically connected contractors.

I strongly support pay for performance; but it should be merit-based performance, not a political loyalty test. Last December we saw the big bonuses going to those who were political appointees within the administration.

I think this bill, which is so important to our national security, should not contain this one provision that I think will damage our national security interests in the long run.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MEEK), a member of the Committee on Armed Services.

Mr. MEEK of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I think it is important for us to remember that this Committee on Armed Services bill is a needed bill and something that this country and our troops need. But at the same time, as it relates to those individuals that we hold up most, those civilian employees that are in the Department of Defense, some 700,000-plus employees, they are getting ready to be a part and victim of a political patronage situation.

We had an opportunity in the committee and we have an opportunity, or hopefully we will have an opportunity on this floor if we can get an amendment up, to put in this bill directing the Secretary of Defense to consult with legal counsel in making sure that we have strong rules against political favors, political pay increases, or whatever the case may be.

I will tell the Members of this Congress throughout all of our districts throughout this country, we do not want people at the Supervisor of Elections Office changing their party affiliation based on the administration that is serving.

□ 1530

If we appreciate and care about these employees, the politicalization of the Department of Defense is not the place for it to happen. This is a very serious, serious issue; and I want to make sure that the Members of this House are on full alert that it is very important that we do not allow individuals to have to, because they were a part of some campaign, that they are now a part of the Department of Defense. We want the best employees there possible; and I think it is very, very important that Members give strong consideration to this.

Please allow the Democrats on this side to be able to put forth amendments that are going to make this bill better. If this career service employment bill was so great, if this reform was so great, why can it not be a stand-alone bill? Why can it not be a stand-alone bill without putting it in the Department of Defense? Please let us not have to put donkeys and elephants on the canteens on our military bases.

Mr. SKELTON. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Missouri (Mr. SKELTON) has 21½ minutes remaining, and the gentleman from Maryland (Mr. BARTLETT) has 13 minutes remaining.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, we are not going to be debating star wars, the missile defense program, out here on the House floor.

Now I made a request to the Committee on Rules that they put in order an amendment which I wanted to make which said that the missile defense system cannot be deployed until it is proven to work. In other words, the old defense test that you have got to fly before you buy. And that applies to every other weapons system, but it is not going to apply to missile defense. They want to deploy it even before they have proven that it works.

Now the interesting thing is that it is kind of a fantastical concept, but the Missile Defense Agency has actually put together, I am not kidding you, a Missile Defense Agency coloring book which they pass out to schools so they can help kids to understand how this system, which they do not want to test before it flies, will work. They actually have crayons that go with it. I am not kidding you. But unfortunately it says ''Made in China'' on the crayons, which means we should color this part Red in the book for the Red Chinese that we are going to deploy the missile system to protect ourselves against.

Then you reach the next part of the little coloring book, Ronald Reagan, who we can color red, white and blue, a great patriot who really believed in this system. He always did. But unfortunately it has yet to be proven to work. So that is red, white and blue.

Next we have the ground-based midcourse defense. Unfortunately, the incoming missile has to yell ''yoo-hoo'' at the rest of the world so that it can be shot down by the Defense Department. So we can color that black.

Finally, we have the airborne laser in the cartoon which is supposed to be on a plane. But the plane is so weighted down that it cannot fly, so we can color that gold for gold-plated for the Defense Department.

None of this will be debated on the House floor, although they have taken the time to give us a missile defense coloring book so we can all play out here on the floor rather than debate the national defense of our country.

Mr. SKELTON. Mr. Chairman, I yield 1 minute 40 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member for yielding me time, and I would like to add my appreciation to the gentleman from Missouri (Mr. SKELTON) for his continued commitment to this process and the chairman of the committee for his continued commitment and the collaborative efforts that they have made together.

I would like to rise to cite that there are very important aspects of this bill, Mr. Chairman, that I support. It is noteworthy that Fort Hood in Texas sent more troops to the war in Iraq than they sent over the last couple of wars and particularly World War I, World War II. So we have a stake in the outcome of treatment of the United States military and the outcome of this war in Iraq.

So the first order of business would be to thank our troops for their service and to acknowledge as we go home this weekend that we will be honoring the dead and celebrating and mourning with their families for the great and ultimate sacrifice that they gave. That is why this bill is so important to be accurate and to be inclusive.

I would have hoped that the gentleman from Tennessee's (Mr. COOPER)

amendment could have been included. That was responsive to many concerns of many of my constituents.

I also believe it is important to note, as I believe General Franks was very clear in his words to some of us who visited him in Doha Qatar, that he understands Americans stand side by side in their support for the troops, but it is important that we now begin to focus in an inclusive way on the aftermath, peace in Iraq, and we have not done that. And there is not much, as I understand, in this legislation that deals with that question. So we have to focus on that, how the military and Ambassador Bremer work together.

Finally, Mr. Chairman, I think it is extremely important that we focus on the question of making sure that there is transparency in the contracts for rebuilding Iraq, more opportunities for women-owned business, more opportunities for small businesses, more opportunity for minority businesses. It is extremely important.

I hope that we will have the opportunity to debate these amendments because I have small business persons in my office today wondering why they have not been exposed to the opportunities of helping America, helping our troops and helping to rebuild Iraq by the American people. Let us open the doors of opportunity. Let everybody work for the betterment of this nation.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii (Mr. ABERCROMBIE), the ranking member of the Subcommittee on Tactical Air and Land Forces.

Mr. ABERCROMBIE. Mr. Chairman, aloha. I delighted to see you today.

Mr. Chairman, as the ranking Democrat on the Subcommittee on Tactical Air and Land Force, I have the distinct pleasure of working with my good friend, the gentleman from Pennsylvania (Mr. WELDON). I do not believe I see him on the floor at the moment. I see other good friends from the committee.

I wanted to express my personal appreciation to the gentleman from Pennsylvania (Mr. WELDON). His impressive familiarity with the details of the numerous programs under our subcommittee purview is one of the major reasons we are considering a defense authorization that correctly addresses the hardware needs of the military.

Our subcommittee held many in-depth, rigorous oversight hearings on a variety of programs, and I think our adherence to a sound process in this arena has served our committee, the Congress, and the Department of Defense very well.

While we dealt with significant programs in all services, this bill explicitly recognizes the importance of a strong Army. The Army has had an uphill fight inside the Pentagon the last few years, and I think the recent war showed how capable they really are.

I am especially pleased that our bill does no harm to the future Stryker Brigades and that the committee was able to come to an agreement about fencing off funding for the remaining brigades. We have struck a blow in a couple of cases for better program management. I am glad to see that the F–22 cut its cost. We fenced further money until its software works the way as it is promised.

The Army's future combat system may be a good thing. It is hard to tell because its budget structure makes it hard to evaluate. We changed that structure so that everybody can see whether the future combat system will work.

We are working on some very advanced systems in all the services. I believe we have struck the right balance between future forces and our legacy systems. In funding modernization of our heavy forces, this bill ensures that we do not sacrifice the real combat capability today for the promise of capability in the future.

I would like to conclude and I would be remiss, Mr. Chairman, if I did not acknowledge the hard work and long hours put in by our committee staff on all levels.

Mr. Chairman, I would like to close by again thanking the gentleman from Pennsylvania (Mr. WELDON) and all the members of the various subcommittee with whom I have had the pleasure of working on this bill.

Mr. BARTLETT of Maryland. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. GINGREY), a valued member of our Committee on Armed Services.

(Mr. GINGREY asked and was given permission to revise and extend his remarks.)

Mr. GINGREY. Mr. Chairman, I thank the subcommittee chairman, the gentleman from Maryland (Mr. BARTLETT), for yielding me time.

Mr. Chairman, I rise today in strong support of H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004, and I urge my colleagues to support the bill as well.

I represent Columbus, Georgia, and Fort Benning, the home of the infantry as well as NAS Atlanta and Dobbins Air Reserve Base in my home, Marietta, Georgia, of Cobb County.

Mr. Chairman, as a first-term member of the House Committee on Armed Services, I am extremely proud of this legislation for many reasons; and I sincerely thank the chairman, the gentleman from California (Mr. HUNTER), the ranking member, the gentleman from Missouri (Mr. SKELTON), and all the subcommittee chairmen, especially my subcommittee chairmen, the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from New York (Mr. MCHUGH), the ranking members, the gentleman from Hawaii (Mr. ABERCROMBIE) and the gentleman from Arkansas (Mr. SNYDER) for the manner in which they have led our committee and for producing a bill that accomplishes so many important goals.

As all Americans have seen over recent months, the American military today faces many different challenges, from urban warfare to more traditional air and ground combat to special operations missions and battles with irregular forces. Our brave men and women in uniform have met all kind of threats. They are committed to protecting our American homeland and to fostering democracy and liberty around the world. Today, Congress matches this commitment with the passage of H.R. 1588.

Mr. Chairman, this bill increases the combat capabilities of our Armed Forces with appropriate levels of spending for readiness, procurement and research and development. It funds programs such as the M–1 Abrams tank and the Bradley fighting vehicles that are used in current conflicts and transforms our military to meet the threats of tomorrow with futuristic systems like the Air Force's F/A–22 Raptor.

The bill provides funding to make our homeland safe as well by combatting terrorism at home and abroad and continuing to develop the ballistic missile defense system.

Finally, Mr. Chairman, I support H.R. 1588 because it contains a number of benefits for our extremely valuable and often overlooked service members. This bill provides a 4.1 percent pay raise across the services and funds important military family housing priorities. It also improves the TRICARE system, the survivor benefit program, and has several provisions to improve the quality of life for members of National Guard and Reserves.

Mr. Chairman, we must remember that we owe all of our freedoms and safety to our brave men and women in uniform; and I am proud that many of them are with us today in the gallery. I am glad that Congress can help them in a small way with the passage of this bill.

Mr. Chairman, I urge all of them to support this very important legislation.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would remind Members not to reference occupants of the gallery.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman yielding me time and his courtesy in allowing me to speak on this important issue.

I think we are all impressed with the gravity of the myriad of issues that deal with national defense and security. Mr. Chairman, there are a number of things that I would speak on, but there is one in particular that concerns me. I had an opportunity to hear, Mr. Chairman, the chairman of the committee reference some of the rationale for short-circuiting the environmental protections that we have come to rely on that deal with our Department of Defense and under this bill would actually be extended to other armies of the Federal Government.

There was reference made to Camp Pendleton. You saw the map and then

you saw overlays that made it appear as though 57 percent of 125,000 acres were unavailable for training activities.

Mr. Chairman, with all due respect, we ought to, I know there is no time to debate it, there is no time to fully be engaged in amendments that would allow the give and take that this body and the American public and the military deserve, but let me just suggest that between now and when we finally deal with the passage of this legislation, maybe we can clear up this one little item.

I have here a map that shows, according to information from the U.S. Fish and Wildlife Service and the U.S. Marine Corps itself, how much has been set aside for critical habit. It is 840 acres, and I have them outlined here. According to, again, the judge in place here in Fish and Wildlife, it would not interfere with amphibious landings, 840 acres, not 57 percent, when you went through and you used the process with Fish and Wildlife, with the Department of Defense, with the Marine Corps, which actually happened.

Now, I find, Mr. Chairman, that using short-circuited activity like this, exaggerating the problems, is not helping us at all.

The real threats to military readiness are here on this map; and they are encroachment from Oceanside, from Vista, from Fallbrook, from San Clemente. Does this bill have anything in it that deals with military encroachment like recently-passed legislation in the California legislature? No, it is silent. It just wants to gut environmental protections. We have a nuclear power plant that is located right here, Interstate 5, and we have areas that are a popular California State Park.

□ 1545

These are issues that affect military readiness. This bill ignores them. It would just simply gut environmental protection.

My experience, Mr. Chairman, is that when we give our fighting men and women the right resources and the right orders, they can accomplish anything. And we should be directing that they protect the environment, they clean up after themselves, and they solve problems, not eliminating simple commonsense environmental protections that, after all, not only protect everybody in this area, but they ultimately protect the fighting men and women, their families, and the overall Earth that we inhabit.

Mr. BARTLETT of Maryland. Mr. Chairman, may I inquire as to the amount of time remaining.

The CHAIRMAN. The gentleman from Maryland (Mr. BARTLETT) has 10 minutes remaining and the gentleman from Missouri (Mr. SKELTON) has 12¾ minutes remaining.

Mr. BARTLETT of Maryland. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MCHUGH), the chairman of the Subcommittee on Total Force.

Mr. MCHUGH. Mr. Chairman, I thank the gentleman, my colleague on the Committee on Armed Services, for yielding me this time.

Mr. Chairman this is the 11th year in which I have had the great honor of serving on this very august, very important committee. And as happens every year, we obviously come to the floor with some disagreements, some perhaps that cause a great deal of controversy and a great deal of conflict amongst the various Members. But one thing that has been most heartening to me with respect to this committee has been the strong commitment on both sides of the aisle, both when my friends on the Democrat side were in the majority and now when the Republicans are in the majority, shared by both parties, and that is our interest, our primary commitment to the good, the welfare of the individuals throughout the various branches of the United States military, who, as has been seen so directly, particularly in recent months and years, fought the hard fight of freedom wherever the challenges arose.

As someone who has had the distinct honor now for 3 years to serve first as the chairman of the Subcommittee on Personnel and now the Subcommittee on Total Force, I can say without equivocation that this bill is not just a good bill; it is absolutely essential to the continued welfare, to the continued interest of those brave men and women in uniform who wear the patch of the United States military. Because this is a bill that not only addresses the emerging lessons learned from the global war on terrorism and with the war in Iraq, but also it reflects the longstanding committee concerns about the inadequacy of military manpower and the damaging effect of excessive operations, both personnel and operations tempo.

This bill reflects not just the Committee on Armed Services' belief in the need to be proactive in military personnel and policy matters, but also, I think, the belief of the entire United States population; and it acts to sustain the commitment and the professionalism of the men and women of America's magnificent all-volunteer armed services and, equally important, the families that support them and all of us.

I would also say, Mr. Chairman, this bill contains legislative and funding initiatives that enhance the ability of the National Guard and Reserves to play their important role, to continue their integration as a vital irreplaceable part of the new total force that is the United States military.

I would like to, Mr. Chairman, just highlight a couple of the initiatives that are contained in this legislation, many of which have been referenced by my colleagues on both sides of the aisle that are contained in the total force portion of this very important legislation.

Active end strength increases of 6,240 above the requested levels, with the $291 million necessary to support those increases.

We provide for growth in reserve component full-time support strength.

Military pay raises that average 4.1 percent, continuing this Congress's, this government's commitment and recognition of the understanding that we need to do better by these brave men and women in terms of what we pay them.

Reserve component pay and personnel policy enhancements that respond to the needs of the National Guard and Reserve personnel training in that total force.

Continuation of war-time pays that were approved in fiscal year 2003 for members engaged in both Operation Enduring Freedom and Operation Iraqi Freedom.

We have taken steps to open up the access to the commissaries and exchange benefits to better define and protect those important benefits and to also make them available on a more regular basis to reserve component members, those in vital portions of the total force concept.

And we have provided a menu of health care improvements for the entire Department of Defense.

This is a vitally important bill at one of the most critical junctures in our Nation's history. And I should say, Mr. Chairman, in closing, that none of these great outcomes is achieved in a vacuum. I want to pay particular words of appreciation to the ranking member on the subcommittee which I have the honor of chairing, the gentleman from Arkansas (Mr. SNYDER), who has done just a great job in both leading and providing invaluable support and insight into our activities, and to all of the committee's staff on both sides of the aisle for their absolutely unwavering commitment to this initiative.

This bill, at the end of the day, in spite of our disagreements as they may exist, needs to be supported. We need to continue our commitment to our great men and women in uniform who are protecting our freedoms each and every day.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I thank the gentleman for yielding me this time, and I also want to agree with all of those who have extolled many of the virtues of this legislation; who have talked about the need for it to be efficient and effective; who have talked about making sure that we protect all of our military personnel and be in a position to protect our citizens.

But I must confess that I do not believe in throwing out the baby with the bath water. When we talk about getting rid of the personnel system, when we talk about taking away the rights of workers to unionize, when we talk about taking away the rights of individuals to appeal, when we talk about individuals not having the right to discuss their grievances, then I think that

is going a bit far. I agree there is a tremendous need for flexibility, and I believe that there ought to be those moved out of civilian positions who are part of the military; but I do not believe that all of the years of developing workers' rights ought to be taken away in one fell swoop.

Quite frankly, Mr. Chairman, I do not even understand why those provisions are in the legislation. They simply are not needed, they are of no value, and I disagree with that part of it. If we cannot guarantee the rights of people who work, then what are we fighting for when we talk about protecting the rights of all the rest? I disagree with that portion of the legislation.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. TURNER).

Mr. TURNER of Ohio. Mr. Chairman, our friends on the other side of the aisle continue to tell horror stories of what this bill, if enacted, would do with respect to civil service and the employees in the Department of Defense. I think we all know that we honor our employees at the Department of Defense. Just like the men and women in uniform who gave us the success in Iraq and in Afghanistan, they too make the difference in our success. They give us the tools, the weapons, the technology, the expertise that allow us to be successful on the battlefield and to have a strong national defense.

Certainly, if the horrors our friends on the other side of the aisle were true, then we should vote this bill down. They say the horrors are that this will result in political patronage; that civil rights will be taken away; that there will be no rights for collective bargaining. Surely if those things were the outcome of this bill, I would vote against it myself. So one would expect that our friends on the other side of the aisle voted against it too. But they did not. In fact, the gentleman from Florida, who told us of the horrors of the possibilities of political patronage, voted for this bill. The gentleman from Tennessee, who spoke about there being no civil rights or collective bargaining for employees of the Department of Defense, voted for this bill.

This bill comes to this floor out of the Committee on Armed Services with bipartisan support and a vote of 58 to two. The horrors they describe are not true. And instead of telling us the sections that would reference the truth about this bill, I thought it would be best to read from it. With respect to political patronage: ''The public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing.'' Those are preserved and specifically set forth in the bill.

Then, with respect to collective bargaining, which again our friends on the other side of the aisle say do not exist if this bill passes, the bill specifically says: ''Ensure that employees may organize, bargain collectively as provided for in this chapter, and participate through labor organizations of their own choosing in decisions which affect them, subject to the provisions of this chapter.''

Clearly, the fact that this bill comes before us with bipartisan support, a vote of 58 to two out of the Committee on Armed Services, shows that the bipartisan support should carry through to passage of this bill; and that, truly, this system of increased flexibility would provide increased opportunity and actually honor our Department of Defense employees.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Shorty we will end the general debate on this all-important bill. And of course I wish first to thank the members of the committee on both sides of the aisle for tremendously hard work. A special thanks to that wonderful staff that we have for the efforts, the late hours they have put in. This could not have been done without them.

We have discussed in the last 2 hours the various problems that have crept into the bill. Hopefully, they will be debated at least on the second rule, which has not been made in order, so we can have a full and fair airing of those.

But on a larger notes than that, I would like to quote the great Roman orator, Mr. Chairman, who once said that ''gratitude is the greatest of all virtues.'' So in what we do today, in passing this bill, which is basically a very good and strong bill for the military of the United States, we are saying ''thank you.'' And we express our gratitude to them, to the men and women of all ranks, to the men and women of all branches, regardless of their specialty. They have done good. Back home in Missouri, the finest compliment you can give in the Ozarks-part of our State is, ''You done good.''

So to each one of the men and women, regardless of where they are, whether they be aboard ship, whether they be in a camp, whether they be in a plane, whether they are training or serving as a peacekeeper in one of those distant places, all of us, both sides of the aisle, should give them a special thanks and word of gratitude.

Mr. Chairman, I reserve the balance of my time.

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Mr. HUNTER. Mr. Chairman, I yield 2½ minutes to the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to speak to the amendment that is going to come up in just a moment, if I might. I appreciate the gentleman incorporating into that amendment an amendment I had that we could not do in committee because of a jurisdictional problem. It is an amendment to take care of two environmental relief points that the Department of Defense needs. I think they are well-thought out.

The amendment as it came to us in committee from the Committee on Resources broadened this. I want to narrow it back down to just deal with the Department of Defense. Here is what the two are:

In section 317 of H.R. 1588 last year, which amends the Endangered Species Act, it provides that the Secretary of Interior will not make future designations of critical habitat on military lands or threaten an endangered species where the installation has negotiated a mutually agreed upon, integrated natural resources management plan between the State Fish and Wildlife Service and the National Fish and Wildlife Service.

This is something that was in the bill last year, passed this House overwhelmingly on a bipartisan basis, passed the committee overwhelmingly on a bipartisan basis, and ran into some difficulty over in the Senate. We want to reenact this and narrow it down from what is actually in the bill. So the gentleman's en bloc amendment will do that, and it will be a tremendous help to the Department of Defense in their readiness activities when preparing to train as they prepare to fight wars.

The second aspect in the amendment is that the Department of Defense requested an adaptation of a new definition of harassment for the Marine Mammal Protection Act. Generally, you cannot take marine mammals. We are not out to kill marine mammals, but the term ''harassment'' has been interpreted in court cases in a ridiculous manner. This changes the definition of harassment so we do not have, if a sea lion is sleeping on a buoy and a Navy ship goes down the channel and the sea lion wakes up and looks at the boat, that can be defined as harassment under the present law.

What we are talking about making is major life changes. We do not want marine whales to beach themselves and that kind of thing, of course. This narrows that down.

Mr. Chairman, this amendment carefully defines the situation. It is a rifle shot dealing with the problems that the Department of Defense has. I think it will help tremendously in our preparation of our young men and women for fighting wars.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me this time.

I commend the chairman of this committee and the ranking member for their work in putting together this very important bill. As a strong supporter of the B–1 bomber program, I appreciate the committee's recognition

of the excellence of B–1 in combat and their importance in operations in the Korean Peninsula by directing the Air Force to restore the 23 aircraft set to be retired.

I hope it is the full intent of this committee that, should these 23 planes be restored to the fleet, that these bombers will be given adequate manpower and maintenance with additional funding to ensure that these costs will not come out of the operations and maintenance funds of the existing 60 bombers.

Mr. Chairman, I also commend the gentleman from California for his attention in this bill to the national defense needs of our Nation, and I also applaud his efforts to hold the Base Realignment and Closure round in 2005 accountable to our emerging national defense needs.

This bill stipulates that the required force structure for the armed services meet prescribed levels and that the Air Force would include in its force structure not less than 96 combat-coded bomber aircraft in active service. I hope it is the intent of this committee in this legislation that the 23 B–1s that would be restored to the fleet under this bill will be incorporated into the parameters of the Air Force bomber structure and taken into consideration for purposes of the base realignment process.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume to engage in a colloquy with the gentleman from California (Chairman HUNTER).

The gentleman will recall in this Chamber the very arduous series of debates that we had on what was then known as the Stealth bomber, now known as the B–2 bomber; and with the gentleman's leadership, some additional funds were put into this bill for additional research and development regarding a new wave of bombers. Would the gentleman be inclined to share that thought with us, please?

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, the gentleman from Missouri (Mr. SKELTON) has been a champion of the idea of utilizing Stealth bombers and Stealth aircraft and coupling them with precision munitions and being able to give enormous leverage to American air power.

If we look at our array of deep-strike platforms, we have the 21 B–2s that are based in the gentleman's district, which are extremely valuable assets. We have a few, over 60 now, B–1 bombers, now that 23 are being retrieved or taken out of the force; and we are retrieving a number of those 23 bombers, bringing those back to the force. They worked very effectively in Iraq. And the balance of our 130 or so combat-coded bombers are made up of the old B–52s, the youngest one of which was built in July of 1962, so the newest B–52 is over 40 years old.

We need to strike out and to design and build a new deep-strike platform. So we put $100 million in this bill to commence pursuit of a new deep-strike platform, which may be manned or on the advice of some people may be unmanned. We could certainly have what I call the B–2 Chevy. That is the new variant of the B–2 that does not have some of the Cold War components but nonetheless would be excellent for conventional missions, and that would be somewhat less in terms of cost than the B–2s that were built for strategic delivery.

So it could be a manned system, it could be an unmanned system, but the point is we better start now because it is going to be years before we have new platforms for deep strike.

At the same time, we plussed up the purchases of precision munitions, those joint direct attack munitions that are used to eliminate the need for literally thousands of bombs, hundreds of bombs to one in terms of ratio where again, instead of carpet bombing a bridge to knock it out, you hit that one strut and bring that entire bridge down.

The gentleman is talking about our two most important systems, that is deep-strike platforms and precision munitions. When those two leveraged systems are coupled together, the United States has enormous capability, and I thank the gentleman for his efforts along these lines.

Mr. SKELTON. Mr. Chairman, I thank the gentleman for his full explanation and a special compliment on his foresight in helping insert these dollars for that additional research and development.

I remember the early days of the then Stealth, now B–2 bomber, when so many had such serious questions about it. And I might say, in three conflicts now, the B–2 bomber has spoken well for America. I thank the gentleman for his help and leadership in that area.

Mr. HUNTER. Mr. Chairman, if the gentleman would continue to yield, I thank the gentleman for his work; and if I could just mention, the gentleman from Texas (Mr. STENHOLM) just spoke. One of his comments was to the effect that he knew that we were retrieving some of these B–1 bombers that the Air Force decided last year to shelve, and he hoped that the cost of maintaining those bombers would not be drawn from the spare parts accounts of the 60 or so bombers that we have right now.

Let me just say in response to the gentleman, who is a great friend of mine, the intent of the committee is to try to get a high mission-capable rate with our entire bomber force, all of the B–1s, and that means spending what it takes to keep those birds in the air, to give them the ability to deliver their platforms with deep ranges, with good protection to the crew. So we want to see higher maintenance dollars expended on that entire force because it is such an important leverage force.

We saw the B–1s being extremely flexible in its pursuit of targets in the Iraq theater. That was appreciated by the committee. I did not get a chance to respond to the gentleman from Texas (Mr. STENHOLM), but I want to assure him that we are going to try to make sure that entire bomber force has a high mission-capable rate, both B–2s that the gentleman is so proud of, and home bases in his district, B–1s, and of course those ancient B–52s.

I know the gentleman from Texas (Mr. SAM JOHNSON) talked about looking out his prison window in Hanoi in 1972 during Operation Linebacker and watching a B–52 explode in midair as it was hit by a Sand missile. Those planes were shot down over 40 years ago, and by the aircraft, anti-aircraft and Sand capability being delivered to North Vietnam by Russia. That means that we need to move along and develop this new technology as quickly as possible and get new birds in the air as quickly as possible. I know the gentleman from Missouri (Mr. SKELTON) and I share that goal.

Mr. SKELTON. Mr. Chairman, I thank the gentleman, and it appears in this bill regarding the additional research and development funding for future system or systems of advanced Stealth techniques, I think it is certainly on the right track.

Mr. OXLEY. Mr. Chairman, I rise today to congratulate Chairman HUNTER and the Armed Services Committee on their work on the Defense authorization. This authorization better prepares the United States to face the new threats to our world.

I am pleased the committee has recognized that after playing a dominant role in Operation Iraqi Freedom, the Abrams battle tank proved that it will continue to play a central role in the defense of our Nation in the years to come. With the 129 Abrams System Enhancement Program upgrades the committee has provided for, the armored cavalry regiment, the ''eyes and ears'' of the Army's Counter Attack Corps, will join the 4th Infantry Division as the most advanced in the world.

As the Army begins transforming itself for future combat situations, heavy armor will continue to play an important role. We should take the lessons we learned in Iraq, and use those in the future. As the centerpiece of the Operation, the Abrams not only proved it's mettle in the desert, it also dominated in urban areas. The tank provided cover for infantrymen and offered precision fire helicopters and planes were not able to. Acting as a battering ram, the Abrams is the safest vehicle in our arsenal, not having suffered one combat-related casualty.

Whether it be the Sherman tank in World War II or the Abrams in the gulf war and Operation Iraqi Freedom, tanks have been critical to military success. The Abrams tank has proven that the tank will continue to play a prominent role in the defense of America well into the 21st century.

Mrs. MALONEY. Mr. Chairman, traditionally, the Defense Authorization Act has been a bipartisan bill. Unfortunately, this year the majority has added highly controversial provisions to the bill regarding civil services law, contracting, environmental exemptions, and nuclear weapons policy.

As we all know, there has been significant controversy over the process of awarding contracts in Iraq, I would like to highlight one provision in the Defense authorization bill that adds much needed sunshine to the Iraq rebuilding effort (section 1456). I thank the Government Reform and Armed Services Committee members for including this section.

In a markup of H.R. 1837, the Services Acquisition Reform Act of 2003, I offered this public disclosure language in the form of an amendment. It was unanimously accepted by the House Government Reform Committee. H.R. 1837 was referred to House Armed Services and included in H.R. 1588, the National Defense Authorization Act for FY 2004.

In the House Armed Services Committee, the Iraqi sunshine amendment was also offered by Mr. SNYDER of Arkansas. I thank Mr. SNYDER for his hard work. The amendment was accepted and included in an en bloc amendment to H.R. 1588. The amendment, now section 1456, will ensure that agencies entering into a contract for the repair, maintenance, or construction of the infrastructure in Iraq without full and open competition, publish details regarding the contract.

This section is very simple. It merely requires the government to publish details regarding these noncompetitive contractors.

It has been said that sunshine is the best disinfectant. The public has a right to know how billions of dollars will be spent in Iraq. As the people's Representatives, we have a duty and responsibility to ensure that funding Congress has appropriated for the Iraqi reconstruction is spent in a fair and open manner. Given the recent controversy, the least we could do is ensure that there is full disclose to the American people.

In recent weeks, we have seen several press reports that United States Agency for International Development (USAID) and other Federal agencies have been awarding no-bid or invitation-only contracts to firms for the rebuilding of Iraq.

For instance, one firm secured a $2 million Iraq school contract through an invitation-only process. USAID awarded an invitation-only contract for $680 million to rebuild Iraq's infrasture. A $50 million policing contract was awarded through a closed bidding process and so on.

I acknowledge that in some instances, noncompetitive contract will be awarded. USAID and others have argued that because of the need to move quickly, they chose to use noncompetitive procedure. The law clearly allows for these procedures. However, if a noncompetitive process is used, the American people have a right to know that it is being used and why it is being used. Section 1456 requires the Federal agencies to make these details public.

Section 1456 mirrors legislation offered in the Senate by Senators WYDEN, COLLINS, and CLINTON, S. 876, the ''Sunshine in Iraq Reconstruction Contracting Act of 2003.'' S. 876 is a bipartisan bill that sets out requirements for the government to publicly justify any closed bidding process used for Iraqi reconstruction work.

I thank Chairman DAVIS, Ranking Member WAXMAN, Chairman HUNTER, and Ranking Member SKELTON, and members of the Government Reform and Armed Services Committees, for their support of this straightforward, good-government provision.

I wholeheartedly support its inclusion in H.R. 1588.

Mr. FALEOMAVAEGA. Mr. Speaker, I want to thank the chairman, the ranking member and both Republican and Democratic members of the Armed Service Subcommittee on Total Force and the full committee for unanimously supporting an amendment to increase the number of military academy appointments from American Samoa, Guam, and the Virgin Islands to the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy.

For my constituents, this means that American Samoa will be able to send two students to each service academy. Given that American Samoa has a population of over 57,000 people, a per capita income of less than $4,500 and almost 5,000 men and women serving in the U.S. armed services, I am pleased that we may be able to offer more students the opportunity to attend one of the our Nation's prestigious military academies.

Like other States and Territories, American Samoa has a long and proud tradition of supporting and defending the United States of America. In 1900, the traditional leaders of American Samoa ceded the island of Tutuila to the United States.

Tutuila's harbor is the deepest in the South Pacific and the port village of Pago Pago was used as a coaling station for U.S. naval ships in the early part of the century and as a support base for U.S. soldiers during WWII. To this day, American Samoa serves as a refueling point for U.S. naval ships and military aircraft.

American Samoa also has a per capital enlistment rate in the U.S. military which is as high as any State or U.S. Territory. Our sons and daughters have served in record numbers in every U.S. military engagement from WWII to present operations in our war against terrorists. We have stood by the United States in good times and bad and I believe it is only appropriate that this relationship should be acknowledged by increasing our number of military academy appointments.

Again, I want to thank Chairman JOHN MCHUGH and Ranking Member VIC SNYDER of the Subcommittee on Total Force for supporting my request to increase the number of military academy appointments for American Samoa. I also want to thank my good friends, the chairman of the Committee on Armed Services, Congressman DUNCAN HUNTER, and Ranking Member IKE SKELTON, for their support.

On a personal note and as a Vietnam Veteran, I also want to thank the sons and daughters of this great Nation who are currently serving in the U.S. Armed Forces. As we consider the National Defense Authorization for Fiscal Year 2004, I am hopeful that we will remember the sacrifices they are making to protect our liberties and in so remembering I urge my colleagues to support this reauthorization.

Mr. SCHIFF. Mr. Chairman, I rise today to object to the sweeping, permanent exemptions from environmental laws at military bases included in this Defense authorization bill.

This set of provisions, the so-called ''Range and Readiness Preservation Initiative,'' would change critical provisions of the Clean Air Act, the Marine Mammal Protection Act, and the Endangered Species Act. These changes would remove Federal and State authority to require the Department of Defense to clean up its thousands of contaminated sites nationwide.

I am a staunch supporter of a strong military and a strong national defense. Yet the changes that have been included in this bill go well beyond any consideration of military preparedness, are overboard, and are ill-advised.

Environmental laws already include provisions for exemptions in the event of a national security issue. The proposals are rendered even more questionable by the fact that the Defense Department has not yet found a compelling case to plead for such an exemption. EPA Administrator Christine Todd Whitman has testified before Congress that compliance with environmental regulations has never impeded military readiness.

Furthermore, these blanket exemptions for the Department of Defense from environmental statutes are inappropriate. I have grave concerns regarding the adverse environmental impact of this initiative. This legislation would relax current requirements protecting wildlife habitats on military installations, as well as requirements to clean up contaminated sites and control air emissions. The Department of Defense is our nation's biggest polluter. I believe that, unless national security is directly affected, the Department of Defense should be required to comply with Federal environmental laws.

I call on my colleagues to strike these provisions.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. BEREUTER). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Defense Authorization Act for Fiscal Year 2004''.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term ''congressional defense committees'' means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Army as follows:

(1) For aircraft, $2,194,585,000.

(2) For missiles, $1,594,662,000.

(3) For weapons and tracked combat vehicles, $2,197,404,000.

(4) For ammunition, $1,428,966,000.

(5) For other procurement, $4,321,496,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Navy as follows:

(1) For aircraft, $9,050,048,000.

(2) For weapons, including missiles and torpedoes, $2,529,821,000.

(3) For ammunition, $963,355,000.

(4) For shipbuilding and conversion, $11,472,384,000.

(5) For other procurement, $4,614,892,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Marine Corps in the amount of $1,154,299,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Air Force as follows:

(1) For aircraft, $12,604,451,000.

(2) For ammunition, $1,324,725,000.

(3) For missiles, $4,348,039,000.

(4) For other procurement, $11,376,059,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2004 for Defense-wide procurement in the amount of $3,734,821,000.

Subtitle B—Army Programs

SEC. 111. STRYKER VEHICLE PROGRAM.

(a) LIMITATION.—Of the funds authorized to be appropriated under section 101 for procurement for the Army for fiscal year 2004 that are

available for the Stryker vehicle program, not more than $655,000,000 may be obligated until—

(1) the Secretary of the Army has submitted to the Deputy Secretary of Defense the report specified in subsection (b);

(2) the Secretary of Defense has submitted to the congressional defense committees the report and certification referred to in subsection (c); and

(3) a period of 30 days has elapsed after the date of the receipt by those committees of the report and certification under paragraph (2).

(b) SECRETARY OF THE ARMY REPORT.—The report referred to in subsection (a)(1) is the report required to be submitted by the Secretary of the Army to the Deputy Secretary of Defense not later than July 8, 2003, that identifies options for modifications to the equipment and configuration of the Army brigade designated as ''Stryker brigades'' to assure that those brigades, after incorporating such modifications, provide—

(1) a higher level of combat capability and sustainability;

(2) a capability across a broader spectrum of combat operations; and

(3) a capability to be employed independently of higher-level command formations and support.

(c) SECRETARY OF DEFENSE REPORT AND CERTIFICATION.—The Secretary of Defense shall transmit to the congressional defense committees not later than 30 days after the date of the receipt by the Deputy Secretary of Defense of the report of the Secretary of the Army referred to in subsection (b), the modification options identified by the Secretary of the Army for purposes of that report. The Secretary of Defense shall include any comments that may be applicable to the analysis of the Secretary of the Army's report and shall certify to the committees whether in the Secretary's judgment fielding the fourth Stryker brigade as planned by the Army in a different configuration from the first three such brigades will fulfill the three objectives set forth in subsection (b).

(d) AUTHORIZED USE OF REMAINDER OF FUNDS.—The funds authorized to be appropriated for procurement for the Army for fiscal year 2004 that are available for the Stryker vehicle program and that become available for obligation upon the conditions of subsection (a) being met shall be obligated either—

(1) to develop, procure, and field equipment and capabilities for the fourth Stryker brigade combat team that would accelerate the options for modifications to enhance Stryker brigades identified in subsection (b); or

(2) for the equipment identified in the fiscal year 2004 budget request to be procured for the fourth Stryker brigade, if the Secretary of Defense, after reviewing the Secretary of Army's report under subsection (b), determines that the current configuration of the fourth Stryker brigade meets the criteria in paragraphs (1) through (3) of subsection (b) and certifies to the congressional defense committees that the equipment identified in the fiscal year 2004 budget request to be procured for the fourth Stryker brigade provides those capabilities.

(e) LIMITATIONS.—(1) In obligating funds in accordance with either paragraph (1) or paragraph (2) of subsection (d), no action may be taken that would delay, hinder, or otherwise disrupt the current production and fielding schedule for the fourth Stryker brigade.

(2) Notwithstanding any other provision of this section, all funds authorized to be appropriated under section 101 for procurement for the Army for fiscal year 2004 that are available for the Stryker vehicle program shall be used exclusively to develop, procure, and field Stryker combat vehicles.

Subtitle C—Navy Programs

SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR F/A–18 AIRCRAFT PROGRAM.

The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2005 program year, for procurement of aircraft in the F/A–18E, F/A–18F, and EA–18G configurations. The total number of aircraft procured through a multiyear contract under this section may not exceed 234.

SEC. 122. MULTIYEAR PROCUREMENT AUTHORITY FOR TACTICAL TOMAHAWK CRUISE MISSILE PROGRAM.

The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement of Tactical Tomahawk cruise missiles. The total number of missiles procured through a multiyear contract under this section shall be determined by the Secretary of the Navy, based upon the funds available, but not to exceed 900 in any year.

SEC. 123. MULTIYEAR PROCUREMENT AUTHORITY FOR VIRGINIA CLASS SUBMARINE PROGRAM.

(a) AUTHORITY.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement of seven Virginia-class submarines.

(b) LIMITATION.—The Secretary of the Navy may not enter into a contract authorized by subsection (a) until—

(1) the Secretary submits to the congressional defense committees a certification that the Secretary has made each of the findings with respect to such contract specified in subsection (a) of section 2306b of title 10, United States Code; and

(2) a period of 30 days has elapsed after the date of the transmission of such certification.

SEC. 124. MULTIYEAR PROCUREMENT AUTHORITY FOR E–2C AIRCRAFT PROGRAM.

(a) AIRCRAFT.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement of four E-2C and four TE–2C aircraft.

(b) ENGINES.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement of 16 engines for aircraft in the E-2C or TE–2C configuration.

(c) LIMITATION ON TERM OF CONTRACTS.—Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this section may not be for a period in excess of four program years.

SEC. 125. LPD–17 CLASS VESSEL.

If after May 7, 2003, there is enacted an Act making supplemental appropriations for the Department of Defense for fiscal year 2003 that includes appropriation of an amount for procurement of Tomahawk cruise missiles for the Navy, then—

(1) the amount provided in section 102 for procurement of weapons for the Navy is reduced by the amount so appropriated or by $200,000,000, whichever is less, with such reduction to be derived from amounts authorized for procurement of Tomahawk cruise missiles; and

(2) the amount provided in section 102 for shipbuilding and conversion is increased by the amount of the reduction under paragraph (1), with the amount of such increase to be available for advance procurement of long-lead items, including the advance fabrication of components, for one LPD–17 class vessel.

Subtitle D—Air Force Programs

SEC. 131. AIR FORCE AIR REFUELING TRANSFER ACCOUNT.

(a) TRANSFER ACCOUNT.—There is hereby established an account for the Department of the Air Force to be known as the Air Force Air Refueling Transfer Account. Amounts in such account may be used in accordance with subsection (c).

(b) AUTHORIZATION OF APPROPRIATIONS.—Within the amount provided in section 103(1), there is authorized to be appropriated to the Air Force Air Refueling Transfer Account for fiscal year 2004 the amount of $229,200,000.

(c) AUTHORIZED USE OF FUNDS.—Amounts in the Air Force Air Refueling Transfer Account may be used for any of the following purposes, as determined by the Secretary of the Air Force:

(1) Necessary expenses for fiscal year 2004 to prepare for leasing of tanker aircraft under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284; 10 U.S.C. 2401a note).

(2) Necessary expenses for fiscal year 2004 to prepare for purchase of tanker aircraft for the Air Force.

(3) Retaining in active service (rather than retiring) KC–135E aircraft.

(4) Maintenance of equipment for KC–135 aircraft that was purchased through a depot.

(d) AUTHORIZED TRANSFERS.—Subject to subsections (e) and (f), the Secretary of the Air Force may transfer funds in the Air Force Air Refueling Transfer Account to appropriations of the Air Force available for purposes set forth in subsection (c), including appropriations available for procurement, for research, development, test, and evaluation, for operation and maintenance, and for military personnel (in the case of retaining KC–135E aircraft in active service), in such amounts as the Secretary determines necessary for such purpose.

(e) LIMITATION.—Amounts appropriated to the Air Force Air Refueling Transfer Account pursuant to the authorization of appropriations in subsection (b) may not be used to enter into a lease for tanker aircraft or to enter into a contract for procurement of tanker aircraft.

(f) NOTICE TO CONGRESS.—A transfer of funds under subsection (d) may not be made until—

(1) the Secretary of the Air Force notifies the congressional defense committees in writing of the amount and purpose of the proposed transfer, including each account to which the transfer is to be made; and

(2) a period of 30 days has elapsed after the date on which the notice is received by those committees.

SEC. 132. INCREASE IN NUMBER OF AIRCRAFT AUTHORIZED TO BE PROCURED UNDER MULTIYEAR PROCUREMENT AUTHORITY FOR AIR FORCE C–130J AIRCRAFT PROGRAM.

Section 131(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2475) is amended by striking ''40 C–130J aircraft'' and inserting ''42 C–130J aircraft''.

SEC. 133. LIMITATION ON RETIRING C–5 AIRCRAFT.

(a) LIMITATION.—The Secretary of the Air Force may not proceed with a decision to retire C–5A aircraft from the active inventory of the Air Force in any number that which would reduce the total number of such aircraft in the active inventory below 112 until—

(1) the Air Force has modified a C–5A aircraft to the configuration referred to as the Reliability Enhancement and Reengining Program (RERP) configuration, as planned under the C–5 System Development and Demonstration program as of May 1, 2003; and

(2) the Director of Operational Test and Evaluation of the Department of Defense—

(A) conducts an operational evaluation of that aircraft, as so modified; and

(B) provides to the Secretary of Defense and the congressional defense committees an operational assessment.

(b) OPERATIONAL EVALUATION.—An operational evaluation for purposes of paragraph (2)(A) of subsection (a) is an evaluation, conducted during operational testing and evaluation of the aircraft, as so modified, of the performance of the aircraft with respect to reliability, maintainability, and availability and with respect to critical operational issues

(c) OPERATIONAL ASSESSMENT.—An operational assessment for purposes of paragraph (2)(B) of subsection (a) is an operational assessment of the program to modify C–5A aircraft to the configuration referred to in subsection (a)(1) regarding both overall suitability and deficiencies of the program to improve performance of the C–5A aircraft relative to requirements and specifications for reliability, maintainability, and availability of that aircraft as in effect on May 1, 2003.

SEC. 134. LIMITATION ON OBLIGATION OF FUNDS FOR PROCUREMENT OF F/A–22 AIRCRAFT.

(a) LIMITATION.—Of the amount appropriated for fiscal year 2004 for procurement of F/A–22 aircraft, $136,000,000 may not be obligated until the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the congressional defense committees the Under Secretary's certification that—

(1) the four primary aircraft designated to participate in the dedicated initial operational test and evaluation program for the F/A–22 aircraft have each been equipped with the version of the avionics software operational flight program that is designated as version 3.1.2 or a later version; and

(2) before the commencement of that dedicated initial operational test and evaluation program, those four aircraft (as so equipped) demonstrate, on average, an avionics software mean time between instability events of at least 20 hours.

(b) CONTINGENCY WAIVER AUTHORITY.—If the Under Secretary notifies the Secretary of Defense that the Under Secretary is unable to make the certification described in subsection (a), the Secretary may waive the limitation under that subsection. Upon making such a waiver—

(1) the Secretary of Defense shall notify the congressional defense committees of the waiver and of the reasons therefor; and

(2) the funds described in subsection (a) may then be obligated, by reason of such waiver, after the end of the 30-day period beginning on the date on which the Secretary's notification is received by those committees.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,332,382,000.

(2) For the Navy, $14,343,360,000.

(3) For the Air Force, $20,548,867,000.

(4) For Defense-wide activities, $18,461,046,000, of which $286,661,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) FISCAL YEAR 2004.—Of the amounts authorized to be appropriated by section 201, $10,893,077,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term ''basic research, applied research, and advanced technology development'' means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. COLLABORATIVE PROGRAM FOR DEVELOPMENT OF ELECTROMAGNETIC GUN TECHNOLOGY.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish and carry out a collaborative program for evaluation and demonstration of advanced technologies and concepts for advanced gun systems that use electromagnetic propulsion for direct and indirect fire applications.

(b) DESCRIPTION OF PROGRAM.—The program under subsection (a) shall be carried out collaboratively pursuant to a memorandum of agreement to be entered into among the Secretary of the Army, the Secretary of the Navy, and the Director of the Defense Advanced Research Projects Agency. The program shall include the following activities:

(1) Identification of technical objectives, quantified technical barriers, and enabling technologies associated with development of the objective electromagnetic gun systems envisioned to meet the needs of each of the Armed Forces and, in so doing, identification of opportunities for development of components or subsystems common to those envisioned gun systems.

(2) Preparation of a time-based plan for development of electromagnetic gun systems for direct fire applications, indirect fire applications, or both direct and indirect fire applications (in the case of the Army and Marine Corps) and for indirect fire applications (in the case of the Navy), which—

(A) includes the programs currently planned by the Army and by the Navy and demonstrates how the enabling technologies common to such Army and Navy programs are used; and

(B) provides estimated dates for decision points, prototype demonstrations, and transitions of successful cases from the collaborative program under this section to an acquisition program.

(3) For each of the enabling technologies common to the Army and Navy programs, identification of whether lead responsibility for developing that technology should be assigned to the Secretary of the Army, the Secretary of the Navy, or the Director, with the Director favored in cases in which the technology is highly challenging or high risk, high reward, and with each such Secretary favored in cases in which that Secretary's military department possesses superior expertise or experience with the technology.

(4) Identification of a strategy for the participation of industry in the program.

(c) MATTERS INCLUDED.—The advanced technologies and concepts included under the program may include, but are not limited to, the following:

(1) Advanced electrical power, energy storage, and switching systems.

(2) Electromagnetic launcher materials and construction techniques for long barrel life.

(3) Guidance and control systems for electromagnetically launched projectiles.

(4) Advanced projectiles and other munitions for electromagnetic gun systems.

(5) Hypervelocity terminal effects.

(d) RELATIONSHIP TO SEPARATE PROGRAMS OF MILITARY DEPARTMENTS.—The Secretary of the Army and the Secretary of the Navy shall carry out separate programs for the evaluation and demonstration of advanced technologies and concepts for, and for the further development and acquisition of, advanced gun systems referred to in subsection (a). Each such Secretary shall incorporate in that Secretary's program the most promising of the technology products matured under the program under subsection (a).

(e) REPORT.—Not later than March 31, 2004, the Secretary of the Army, the Secretary of the Navy, and the Director of the Defense Advanced Research Projects Agency shall jointly submit a report to the congressional defense committees on the implementation of the program under subsection (a). The report shall include the following:

(1) A description of the memorandum of agreement entered into under subsection (b).

(2) The time-based plan required by subsection (b)(2).

(3) A description of the goals and objectives of the program.

(4) Identification of funding required for fiscal year 2004 and for the future years defense program to carry out the program.

(5) A description of a plan for industry participation in the program.

SEC. 212. AUTHORITY TO SELECT CIVILIAN EMPLOYEE OF DEPARTMENT OF DEFENSE AS DIRECTOR OF DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

Section 196(b)(1) of title 10, United States Code, is amended—

(1) in the first sentence, by inserting before the period at the end the following: ''or from among senior civilian officials or employees of the Department of Defense who have substantial experience in the field of test and evaluation''; and

(2) in the second sentence, by striking ''vice admiral'' and inserting ''the grade of vice admiral, or, in the case of a civilian official or employee, an equivalent level.''.

SEC. 213. DEVELOPMENT OF THE JOINT TACTICAL RADIO SYSTEM.

(a) JOINT PROGRAM OFFICE.—The Secretary of Defense shall designate a single joint program office within the Department of Defense for management of the Joint Tactical Radio System development program. The Secretary shall provide for the head of that office to be selected on a rotating basis from among officers of different Armed Forces.

(b) CONSOLIDATED PROGRAM ELEMENTS.—The Secretary shall provide that all funds for development and procurement of the Joint Tactical Radio System program shall be consolidated under and managed by the head of the joint program office designated under subsection (a).

(c) PROGRAM DEVELOPMENT.—The Secretary shall provide that, subject to the authority, direction, and control of the Secretary, the head of the joint program office designated under subsection (a) shall—

(1) establish and control the performance specifications for the Joint Tactical Radio System;

(2) establish and control the standards for development of the software and equipment for that system;

(3) establish and control the standards for operation of that system; and

(4) develop a single, unified concept of operations for all users of that system.

SEC. 214. FUTURE COMBAT SYSTEMS.

(a) LIMITATION.—None of the funds authorized to be appropriated under section 201(1) for development and demonstration of systems for the Future Combat Systems program may be obligated or expended until 30 days after the Secretary of the Army submits to the congressional defense committees a report on such program. The report shall include the following:

(1) The findings and conclusions of—

(A) the review of the Future Combat Systems program carried out by the independent panel at the direction of the Secretary of Defense; and

(B) the milestone B review of the Future Combat Systems program carried out by the defense acquisition board.

(2) For each of the key performance parameters relating to the Future Combat Systems program, the threshold value at which the utility of the individual systems comprising the Future Combat Systems program become questionable.

(3) For each of the three projects requested under program element 64645A, Armored Systems Modernization, a completed analysis of alternatives.

(b) SEPARATE PROGRAM ELEMENTS.—For fiscal years beginning with 2004, the Secretary of Defense shall ensure that—

(1) each project under the Army's Future Combat Systems program (whether in existence before, on, or after the date of the enactment of this Act) is assigned a separate, dedicated program element; and

(2) before such a program element is assigned to such a project, an analysis of alternatives for such project is completed.

SEC. 215. ARMY PROGRAM TO PURSUE TECHNOLOGIES LEADING TO THE ENHANCED PRODUCTION OF TITANIUM BY THE UNITED STATES.

(a) EFFORTS REQUIRED.—The Secretary of Defense shall—

(1) assess promising technologies leading to the enhanced production of titanium by the United States; and

(2) select, on a competitive basis, the most viable such technologies for research, development, and production.

(b) EXECUTIVE AGENT.—The Secretary of the Army shall serve as executive agent in carrying out subsection (a).

(c) FUNDING.—Of the funds authorized to be appropriated by section 201(1) for research, development, test, and evaluation, Army, for fiscal year 2004, $8,000,000 shall be available in program element 62624A to carry out this section.

SEC. 216. EXTENSION OF REPORTING REQUIREMENT FOR RAH–66 COMANCHE AIRCRAFT PROGRAM.

Section 211 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2479) is amended in subsection (a) by inserting ''and fiscal year 2004'' after ''fiscal year 2003''.

SEC. 217. STUDIES OF FLEET PLATFORM ARCHITECTURES FOR THE NAVY.

(a) INDEPENDENT STUDIES.—(1) The Secretary of Defense shall provide for the performance of eight independent studies on alternative future fleet platform architectures for the Navy.

(2) The Secretary shall forward the results of each study to the congressional defense committees not later than March 1, 2004.

(3) Each such study shall be submitted both in unclassified, and to the extent necessary, in classified versions.

(b) ENTITIES TO PERFORM STUDIES.—The Secretary of Defense shall provide for the studies under subsection (a) to be performed as follows:

(1) One shall be performed by the Secretary of the Navy, using Department of the Navy personnel.

(2) Four shall be performed by qualified analytical organizations external to Department of Defense.

(3) Three shall be performed by defense firms, or teams of defense firms, in the private sector.

(c) PERFORMANCE OF STUDIES.—(1) The Secretary of Defense shall require each entity undertaking one of the studies under this section to commit to performing the study independently from the other studies and, in the case of the entities selected under paragraphs (2) and (3) of subsection (b), independently from the Navy, so as to ensure independent analysis.

(2) In performing a study under this section, the entity performing the study shall consider the following:

(A) The National Security Strategy of the United States.

(B) Potential future threats to the United States and to United States naval forces.

(C) The traditional roles and missions of United States naval forces.

(D) Alternative roles and missions.

(E) The role of evolving technology on future naval forces.

(F) Opportunities for reduced manning and unmanned ships and vehicles in future naval forces.

(3) Each entity performing a study under this section, while cognizant of current overall fleet platform architecture, shall not allow the current features of fleet platform architecture to constrain the analysis for purposes of that study.

(d) NAVAL STUDIES.—Each study under this section shall present one or two possible overall fleet platform architectures. For each such architecture presented, the study shall include the following:

(1) The numbers, kinds, and sizes of vessels, the numbers and types of associated manned and unmanned vehicles, and the basic capabilities of each of those platforms.

(2) Other information needed to understand that architecture in basic form and the supporting analysis.

(e) COSTS.—Within the amount provided in section 201(2), the amount of $1,600,000 is authorized, within Program Element 65154N, for the purposes of this section.

Subtitle C—Ballistic Missile Defense

SEC. 221. ENHANCED FLEXIBILITY FOR BALLISTIC MISSILE DEFENSE SYSTEMS.

(a) FLEXIBILITY FOR SPECIFICATION OF PROGRAM ELEMENTS.—Subsection (a) of section 223 of title 10, United States Code, is amended—

(1) by inserting ''BY PRESIDENT'' in the subsection heading after ''SPECIFIED'';

(2) by striking ''program elements governing functional areas as follows:'' and inserting ''such program elements as the President may specify.''; and

(3) by striking paragraphs (1) through (6).

(b) CONFORMING AMENDMENTS.—(1) Subsection (c) of such section is amended by striking ''for each program element specified in subsection (a)'' and inserting ''for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a)''.

(2) Subsection (c)(3) of section 232 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1037; 10 U.S.C. 2431 note) is amended by striking ''each functional area'' and all that follows through ''subsection (b),'' and inserting ''each then-current program element for ballistic missile defense systems in effect pursuant to subsection (a) or (b)''.

(c) AMENDMENTS RELATING TO CHANGES IN ACQUISITION TERMINOLOGY.—(1) Section 223(b)(2) of title 10, United States Code, is amended by striking ''means the development phase whose'' and inserting ''means the period in the course of an acquisition program during which the''.

(2) Subsection (d)(1) of section 232 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1037; 10 U.S.C. 2431 note) is amended by striking '', as added by subsection (b)''.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $25,050,587,000.

(2) For the Navy, $27,901,790,000.

(3) For the Marine Corps, $3,517,756,000.

(4) For the Air Force, $25,434,460,000.

(5) For Defense-wide activities, $16,134,047,000.

(6) For the Army Reserve, $1,954,009,000.

(7) For the Naval Reserve, $1,171,921,000.

(8) For the Marine Corps Reserve, $199,452,000.

(9) For the Air Force Reserve, $2,170,188,000.

(10) For the Army National Guard, $4,194,331,000.

(11) For the Air National Guard, $4,404,646,000.

(12) For the United States Court of Appeals for the Armed Forces, $10,333,000.

(13) For Environmental Restoration, Army, $396,018,000.

(14) For Environmental Restoration, Navy, $256,153,000.

(15) For Environmental Restoration, Air Force, $384,307,000.

(16) For Environmental Restoration, Defense-wide, $24,081,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $212,619,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $59,000,000.

(19) For Cooperative Threat Reduction programs, $450,800,000.

(20) United States Industrial Base Capabilities Fund, $100,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $632,261,000.

(2) For the National Defense Sealift Fund, $1,102,762,000.

(3) For the Defense Commissary Agency Working Capital Fund, $1,089,246,000.

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for the Defense Health Program, $15,317,063,000, of which—

(1) $14,923,441,000 is for Operation and Maintenance;

(2) $65,796,000 is for Research, Development, Test, and Evaluation; and

(3) $327,826,000 is for Procurement.

(b) CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, $1,580,261,000, of which—

(A) $1,249,168,000 is for Operation and Maintenance;

(B) $251,881,000 is for Research, Development, Test, and Evaluation; and

(C) $79,212,000 is for Procurement.

(2) Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, $817,371,000.

(d) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, $162,449,000.

Subtitle B—Environmental Provisions

SEC. 311. REAUTHORIZATION AND MODIFICATION OF TITLE I OF SIKES ACT.

(a) REAUTHORIZATION.—Section 108 of the Sikes Act (16 U.S.C. 670f) is amended by striking ''fiscal years 1998 through 2003'' each place it appears and inserting ''fiscal years 2004 through 2008''.

(b) SENSE OF CONGRESS REGARDING SECTION 107.—(1) Congress finds the following:

(A) The Department of Defense maintains over 25,000,000 acres of valuable fish and wildlife habitat on approximately 400 military installations nationwide.

(B) These lands contain a wealth of plant and animal life, vital wetlands for migratory birds, and nearly 300 federally listed threatened species and endangered species.

(C) Increasingly, land surrounding military bases are being developed with residential and commercial infrastructure that fragments fish and wildlife habitat and decreases its ability to support a diversity of species.

(D) Comprehensive conservation plans, such as integrated natural resource management

plans under the Sikes Act (16 U.S.C. 670 et seq.), can ensure that these ecosystem values can be protected and enhanced while allowing these lands to meet the needs of military operations.

(E) Section 107 of the Sikes Act (16 U.S.C. 670e–2) requires sufficient numbers of professionally trained natural resources management personnel and natural resources law enforcement personnel to be available and assigned responsibility to perform tasks necessary to carry out title I of the Sikes Act, including the preparation and implementation of integrated natural resource management plans.

(F) Managerial and policymaking functions performed by Department of Defense on-site professionally trained natural resource management personnel on military installations are appropriate governmental functions.

(G) Professionally trained civilian biologists in permanent Federal Government career managerial positions are essential to oversee fish and wildlife and natural resource conservation programs are essential to the conservation of wildlife species on military land.

(2) It is the sense of Congress that the Secretary of Defense should take whatever steps are necessary to ensure that section 107 of the Sikes Act (16 U.S.C. 670e–2) is fully implemented consistent with the findings made in paragraph (1).

(c) PILOT PROGRAM FOR INVASIVE SPECIES MANAGEMENT FOR MILITARY INSTALLATIONS.—(1) Section 101(b)(1) of the Sikes Act (16 U.S.C. 670a(b)(1)) is amended by redesignating subparagraphs (D) through (J) in order as subparagraphs (E) through (K), and by inserting after subparagraph (C) the following:

''(D) during fiscal years 2004 through 2008, in the case of a plan for a military installation in Guam, management, control, and eradication of invasive species that are not native to the ecosystem of the military installation and the introduction of which cause or may cause harm to military readiness, the environment, the economy, or human health and safety;''.

(2) The amendment made by paragraph (1) shall apply—

(A) to any integrated natural resources management plan prepared for a military installation in Guam under section 101(a)(1) of the Sikes Act (16 U.S.C. 670a(a)(1)) on or after the date of the enactment of this Act; and

(B) to any integrated natural resources management plan prepared for a military installation in Guam under section 101(a)(1) of the Sikes Act (16 U.S.C. 670a(a)(1)) before the date of the enactment of this Act, effective March 1, 2004.

SEC. 312. AUTHORIZATION FOR DEFENSE PARTICIPATION IN WETLAND MITIGATION BANKS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2694a the following new section:

''§2694b. Participation in wetland mitigation banks

''(a) AUTHORITY TO PARTICIPATE.—The Secretary of a military department, and the Secretary of Defense with respect to matters concerning a Defense Agency, when engaged in an authorized activity that may or will result in the destruction of, or an adverse impact to, a wetland, may make payments to a wetland mitigation banking program or 'in-lieu-fee' mitigation sponsor approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605; November 28, 1995) or the Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (65 Fed. Reg. 66913; November 7, 2000), or any successor administrative guidance.

''(b) ALTERNATIVE TO CREATION OF WETLAND.—Participation in a wetland mitigation banking program or consolidated user site under subsection (a) shall be in lieu of mitigating wetland impacts through the creation of a wetland on Federal property.

''(c) TREATMENT OF PAYMENTS.—Payments made under subsection (a) to a wetland mitigation banking program or consolidated user site may be treated as eligible project costs for military construction.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2694a the following new item:

''2694b. Participation in wetland mitigation banks.''.

SEC. 313. INCLUSION OF ENVIRONMENTAL RESPONSE EQUIPMENT AND SERVICES IN NAVY DEFINITIONS OF SALVAGE FACILITIES AND SALVAGE SERVICES.

(a) SALVAGE FACILITIES.—Section 7361 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(e) SALVAGE FACILITIES DEFINED.—In this section, the term 'salvage facilities' includes equipment and gear utilized to prevent, abate, or minimize damage to the environment in connection with a marine salvage operation.''.

(b) SETTLEMENT OF CLAIMS FOR SALVAGE SERVICES.—Section 7363 of such title is amended—

(1) by inserting ''(a) AUTHORITY TO SETTLE CLAIM.—'' before ''The Secretary''; and

(2) by adding at the end the following new subsection:

''(b) SALVAGE SERVICES DEFINED.—In this section, the term 'salvage services' includes services performed in connection with a marine salvage operation that are intended to prevent, abate, or minimize damage to the environment.''.

SEC. 314. CLARIFICATION OF DEPARTMENT OF DEFENSE RESPONSE TO ENVIRONMENTAL EMERGENCIES.

(a) TRANSPORTATION OF HUMANITARIAN RELIEF SUPPLIES TO RESPOND TO ENVIRONMENTAL EMERGENCIES.—Section 402 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) RESPONSE TO ENVIRONMENTAL EMERGENCIES.—The authority of the Secretary of Defense to transport humanitarian relief supplies under this section includes the authority to transport supplies intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment.''.

(b) CONDITIONS ON PROVISION OF TRANSPORTATION.—Subsection (b) of such section is amended—

(1) in paragraph (1)(C), by inserting ''or entity'' after ''people'';

(2) in paragraph (1)(E), by inserting ''or use'' after ''distribution''; and

(3) in paragraph (3), by striking ''donor to ensure that supplies to be transported under this section'' and inserting ''entity requesting the transport of supplies under this section to ensure that the supplies''.

(c) PROVISION OF DISASTER ASSISTANCE.—Section 404 of such title is amended—

(1) in subsection (a), by inserting ''or serious harm to the environment'' after ''loss of lives''; and

(2) in subsection (c)(2), by inserting ''or the environment'' after ''human lives''.

(d) PROVISION OF HUMANITARIAN ASSISTANCE.—Section 2561(a) of such title is amended—

(1) by inserting ''(1)'' before ''To the extent''; and

(2) by adding at the end the following new paragraph

''(2) The authority of the Department of Defense to provide humanitarian assistance under this section includes the authority to transport supplies or provide assistance intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment.''.

SEC. 315. REQUIREMENTS FOR RESTORATION ADVISORY BOARDS AND EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.

(a) MEMBERSHIP AND MEETING REQUIREMENTS FOR RESTORATION ADVISORY BOARDS.—The Secretary of Defense shall amend the regulations required by section 2705(d)(2) of title 10, United States Code, relating to the establishment, characteristics, composition, and funding of restoration advisory boards to ensure that each restoration advisory board complies with the following requirements:

(1) Each restoration advisory board shall be fairly balanced in its membership in terms of the points of view represented and the functions to be performed.

(2) Unless a closed or partially closed meeting is determined to be proper in accordance with one or more of the exceptions listed in the section 552b(c) of title 5, United States Code, each meeting of a restoration advisory board shall be—

(A) held at a reasonable time and in a manner or place reasonably accessible to the public, including individuals with disabilities; and

(B) open to the public.

(3) Timely notice of each meeting of a restoration advisory board shall be published in a local newspaper of general circulation.

(4) Interested persons may appear before or file statements with a restoration advisory board, subject to such reasonable restrictions as the Secretary may prescribe.

(5) Subject to section 552 of title 5, United States Code, the records, reports, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were made available to, prepared for, or prepared by each restoration advisory board shall be available for public inspection and copying at a single, publicly accessible location, such as a public library or an appropriate office of the military installation for which the restoration advisory board is established, at least until the restoration advisory board is terminated.

(6) Detailed minutes of each meeting of each restoration advisory board shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the restoration advisory board. The accuracy of the minutes of a restoration advisory board shall be certified by the chairperson of the board.

(b) FACA EXEMPTION.—Section 2705(d)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

''(C) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a restoration advisory board established under this subsection.''.

SEC. 316. REPORT REGARDING IMPACT OF CIVILIAN COMMUNITY ENCROACHMENT AND CERTAIN LEGAL REQUIREMENTS ON MILITARY INSTALLATIONS AND RANGES.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the impact, if any, of the following types of activities at military installations and operational ranges:

(1) Civilian community encroachment on those military installations and ranges whose operational training activities, research, development, test, and evaluation activities, or other operational, test and evaluation, maintenance, storage, disposal, or other support functions require, or in the future reasonably may require, safety or operational buffer areas. The requirement for such a buffer area may be due to a variety of factors, including air operations, ordnance operations and storage, or other activities that generate or might generate noise, electromagnetic interference, ordnance arcs, or environmental impacts that require or may require safety or operational buffer areas.

(2) Compliance by the Department of Defense with State Implementation Plans for Air Quality under section 110 of the Clean Air Act (42 U.S.C. 7410).

(3) Compliance by the Department of Defense with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(b) MATTERS TO BE INCLUDED WITH RESPECT TO CIVILIAN ENCROACHMENTS.—With respect to paragraph (1) of subsection (a), the study shall include the following:

(1) A list of all military installations described in subsection (a)(1) at which civilian community encroachment is occurring.

(2) A description and analysis of the types and degree of such civilian community encroachment at each military installation included on the list.

(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such civilian community encroachment on operational training activities, research, development, test, and evaluation activities, and other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions performed by military installations included on the list. The analysis shall include the following:

(A) A review of training and test ranges at military installations, including laboratories and technical centers of the military departments, included on the list.

(B) A description and explanation of the trends of such encroachment, as well as consideration of potential future readiness problems resulting from unabated encroachment.

(4) An estimate of the costs associated with current and anticipated partnerships between the Department of Defense and non-Federal entities to create buffer zones to preclude further development around military installations included on the list, and the costs associated with the conveyance of surplus property around such military installations for purposes of creating buffer zones.

(5) Options and recommendations for possible legislative or budgetary changes necessary to mitigate current and anticipated future civilian community encroachment problems.

(c) MATTERS TO BE INCLUDED WITH RESPECT TO SPECIFIED LAWS.—With respect to paragraphs (2) and (3) of subsection (a), the study shall include the following:

(1) A list of all military installations and other locations at which the Armed Forces are encountering problems related to compliance with the laws specified in such paragraphs.

(2) A description and analysis of the types and degree of compliance problems encountered.

(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such compliance problems on the following functions performed at military installations:

(A) Operational training activities.

(B) Research, development, test, and evaluation activities.

(C) Other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions.

(4) A description and explanation of the trends of such compliance problems, as well as consideration of potential future readiness problems resulting from such compliance problems.

(d) REPORT.—Not later than January 31, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the study conducted under subsection (a), including the specific matters required to be addressed by paragraphs (1) through (5) of subsection (b) and paragraphs (1) through (4) of subsection (c).

SEC. 317. MILITARY READINESS AND CONSERVATION OF PROTECTED SPECIES.

(a) DESIGNATION OF CRITICAL HABITAT.—Section 4(a)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(3)) is amended by striking ''prudent and determinable'' and inserting ''necessary''.

(b) LIMITATION ON DESIGNATION OF CRITICAL HABITAT.—Section 4(a)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting ''(A)'' after ''(3)''; and

(3) by adding at the end the following:

''(B)(i) The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines that such plan addresses special management considerations or protection (as those terms are used in section 3(5)(A)(i)).

''(ii) Nothing in this paragraph affects the requirement to consult under section 7(a)(2) with respect to an agency action (as that term is defined in that section).

''(iii) Nothing in this paragraph affects the obligation of the Department of Defense to comply with section 9, including the prohibition preventing extinction and taking of endangered species and threatened species.''.

(c) CONSIDERATION OF EFFECTS OF DESIGNATION OF CRITICAL HABITAT.—Section 4(b)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(2)) is amended by inserting ''the impact on national security,'' after ''the economic impact,''.

SEC. 318. MILITARY READINESS AND MARINE MAMMAL PROTECTION.

(a) DEFINITION OF HARASSMENT.—Section 3(18) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(18)) is amended by striking the matter preceding subparagraph (B) and inserting the following:

''(18)(A) The term 'harassment' means—

''(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild; or

''(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered.''.

(b) EXEMPTION OF ACTIONS NECESSARY FOR NATIONAL DEFENSE.—Section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by inserting after subsection (e) the following:

''(f) EXEMPTION OF ACTIONS NECESSARY FOR NATIONAL DEFENSE.—(1) The Secretary of Defense, after conferring with the Secretary of Commerce, the Secretary of the Interior, or both, as appropriate, may exempt any action or category of actions undertaken by the Department of Defense or its components from compliance with any requirement of this Act, if the Secretary determines that it is necessary for national defense.

''(2) An exemption granted under this subsection—

''(A) subject to subparagraph (B), shall be effective for a period specified by the Secretary of Defense; and

''(B) shall not be effective for more than 2 years.

''(3)(A) The Secretary of Defense may issue additional exemptions under this subsection for the same action or category of actions, after—

''(i) conferring with the Secretary of Commerce, the Secretary of the Interior, or both as appropriate; and

''(ii) making a new determination that the additional exemption is necessary for national defense.

''(B) Each additional exemption under this paragraph shall be effective for a period specified by the Secretary of Defense, of not more than 2 years.''.

(c) INCIDENTAL TAKINGS OF MARINE MAMMALS IN MILITARY READINESS ACTIVITIES.—Section 101(a)(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking ''within a specified geographical region'';

(B) by striking ''within that region of small numbers''; and

(C) by adding at the end the following:

''Notwithstanding the preceding sentence, the Secretary is not required to publish notice under this subparagraph with respect to incidental takings while engaged in a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note) authorized by the Secretary of Defense, except in the Federal Register.'';

(2) in subparagraph (B)—

(A) by striking ''within a specified geographical region''; and

(B) by striking ''within one or more regions''; and

(3) in subparagraph (D)—

(A) in clause (i)—

(i) by striking ''within a specific geographic region'';

(ii) by striking ''of small numbers''; and

(iii) by striking ''within that region''; and

(B) by adding at the end the following:

''(vi) Notwithstanding clause (iii), the Secretary is not required to publish notice under this subparagraph with respect to an authorization under clause (i) of incidental takings while engaged in a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note) authorized by the Secretary of Defense, except in the Federal Register.''.

SEC. 319. LIMITATION ON DEPARTMENT OF DEFENSE RESPONSIBILITY FOR CIVILIAN WATER CONSUMPTION IMPACTS RELATED TO FORT HUACHUCA, ARIZONA.

(a) RULE OF CONSTRUCTION.—For purposes of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), in the case of Fort Huachuca, Arizona, the Secretary of the Army may be held responsible for water consumption that occurs on that military installation (or outside of that installation but under the direct authority and control of the Secretary). The Secretary of the Army is not responsible for water consumption that occurs outside of Fort Huachuca and is beyond the direct authority and control of the Secretary even though the water is derived from a watershed basin shared by that military installation and the water consumption outside of that installation may impact a critical habitat or endangered species outside the installation.

(b) VOLUNTARY EFFORTS.—Nothing in this section shall prohibit the Secretary of the Army from voluntarily undertaking efforts to mitigate water consumption related to Fort Huachuca.

(c) DEFINITION OF WATER CONSUMPTION.—In this section, the term ''water consumption'' means the consumption of water, from any source, for human purposes of any kind, including household or industrial use, irrigation, or landscaping.

(d) EFFECTIVE DATE.—This section applies only to Department of Defense actions regarding which consultation or reconsultation under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is first required with regard to Fort Huachuca on or after the date of the enactment of this Act.

SEC. 320. CONSTRUCTION OF WETLAND CROSSINGS, CAMP SHELBY COMBINED ARMS MANEUVER AREA, CAMP SHELBY, MISSISSIPPI.

Amounts authorized to be appropriated by section 301(1) for operation and maintenance for the Army shall be available to the Secretary of the Army to construct wetlands crossings at the

Camp Shelby Combined Arms Maneuver Area at Camp Shelby, Mississippi, for the purpose of ensuring that combat arms training performed at that area is conducted in conformance with the spirit and intent of applicable environmental laws.

Subtitle C—Workplace and Depot Issues

SEC. 321. EXCLUSION OF CERTAIN EXPENDITURES FROM PERCENTAGE LIMITATION ON CONTRACTING FOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOADS.

Section 2474(f)(1) of title 10, United States Code, is amended by striking ''entered into during fiscal years 2003 through 2006''.

SEC. 322. HIGH-PERFORMING ORGANIZATION BUSINESS PROCESS REENGINEERING PILOT PROGRAM.

(a) PILOT PROGRAM.—(1) The Secretary of Defense shall establish a pilot program under which the Secretary of each military department shall administer, or continue the implementation of, high-performing organizations at military installations through the conduct of a Business Process Reengineering initiative.

(2) The implementation and management of a Business Process Reengineering initiative under the pilot program shall be the responsibility of the commander of the military installation at which the Business Process Reengineering initiative is carried out.

(b) ELIGIBLE ORGANIZATIONS.—Two types of organizations are eligible for selection to participate in the pilot program:

(1) Organizations that underwent a Business Process Reengineering initiative within the preceding five years, achieved major performance enhancements under the initiative, and will be able to sustain previous or achieve new performance goals through the continuation of its existing or completed Business Process Reengineering plan.

(2) Organizations that have not undergone or have not successfully completed a Business Process Reengineering initiative, but which propose to achieve, and reasonably could reach, enhanced performance goals through implementation of a Business Process Reengineering initiative.

(c) ADDITIONAL ELIGIBILITY REQUIREMENTS.—(1) To be eligible for selection to participate in the pilot program under subsection (b)(1), an organization described in such subsection must be able to demonstrate the completion of a total organizational assessment that resulted in enhanced performance measures at least comparable to those that might be achieved through competitive sourcing.

(2) To be eligible for selection to participate in the pilot program under subsection (b)(2), an organization described in such subsection must be able to identify—

(A) functions, processes, and measures to be studied under the Business Process Reengineering initiative;

(B) adequate resources for assignment to carry out the Business Process Reengineering initiative; and

(C) labor/management agreements in place to ensure effective implementation of the Business Process Reengineering initiative.

(d) PILOT PROGRAM LIMITATIONS.—The pilot program shall be subject to the following limitations:

(1) Total participants is limited to 15 military installations, with some participants to be drawn from organizations described in subsection (b)(1) and some participants drawn from organizations described in subsection (b)(2).

(2) During the implementation period for the Business Process Reengineering initiative, but not to exceed one year, a participating organization shall not be subject to any Office of Management and Budget Circular A–76 competition or other public-private competition involving any function covered by the Business Process Reengineering initiative.

(e) EFFECT OF SUCCESSFUL IMPLEMENTATION.—An organization designated as a high-performing organization as a result of successful implementation of a Business Process Reengineering initiative under the pilot program shall be exempt, during the five-year period following such designation, from any Office of Management and Budget Circular A–76 competition or other public-private competition involving any function that was studied under the Business Process Reengineering initiative.

(f) REVIEWS AND REPORTS.—The Secretaries of the military departments shall conduct annual performance reviews of the participating organizations or functions within their respective departments. Reviews and reports shall evaluate organizational performance measures or functional performance measures and determine whether organizations are performing satisfactorily for purposes of continuing participation in the pilot program.

(g) PERFORMANCE MEASURES.—Performance measures should include the following, which shall be measured against organizational baselines determined before participation in the pilot program:

(1) Costs, savings, and overall financial performance of the organization.

(2) Organic knowledge, skills or expertise.

(3) Efficiency and effectiveness of key functions or processes.

(4) Efficiency and effectiveness of the overall organization.

(5) General customer satisfaction.

(h) DEFINITIONS.—In this section

(1) The term ''high-performing organization'' means an organization whose performance exceeds that of comparable providers, whether public or private.

(2) The term ''Business Process Reengineering'' refers to an organization's complete and thorough analysis and reengineering of mission and support functions and processes to achieve improvements in performance, including a fundamental reshaping of the way work is done to better support an organization's mission and reduce costs.

SEC. 323. DELAYED IMPLEMENTATION OF REVISED OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-76 BY DEPARTMENT OF DEFENSE PENDING REPORT.

(a) LIMITATION PENDING REPORT.—No studies or competitions may be conducted under the policies and procedures contained in any revisions to Office of Management and Budget Circular A–76, as the circular exists as of May 1, 2003, for possible contracting out of work being performed, as of such date, by employees of the Department of Defense, until the end of the 45-day period beginning on the date on which the Secretary of Defense submits to Congress a report on the impacts and effects of the revisions.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall contain, at a minimum, specific information regarding the following:

(1) The extent to which the revisions will ensure that employees of the Department of Defense have the opportunity to compete to retain their jobs.

(2) The extent to which the revisions will provide appeal and protest rights to employees of the Department of Defense that are equivalent to those available to contractors.

(3) Identify safeguards in the revisions to ensure that all public-private competitions are fair, appropriate, and comply with requirements of full and open competition.

(4) The plans and strategies of the Department to ensure an appropriate phase-in period for the revisions, as recommended by the Commercial Activities Panel of the Government Accounting Office in its April 2002 report to Congress, including recommendations for any legislative changes that may be required to ensure a smooth and efficient phase-in period.

(5) The plans and strategies of the Department to collect and analyze data on the costs and quality of work contracted out or retained in-house as a result of a sourcing process conducted under the revised Office of Management and Budget circular A–76.

SEC. 324. NAVAL AVIATION DEPOTS MULTI-TRADES DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT REQUIRED.—In accordance with section 4703 of title 5, United States Code, the Secretary of the Navy shall establish a demonstration project under which three Naval Aviation Depots are given the flexibility to promote by one grade level workers who are certified at the journey level as able to perform multiple trades.

(b) SELECTION REQUIREMENTS.—As a condition on eligibility for selection to participate in the demonstration project, a Naval Aviation Depot shall submit to the Secretary a business case analysis and concept plan—

(1) that, on the basis of the results of analysis of work processes, demonstrate that process improvements would result from the trade combinations proposed to be implemented under the demonstration project; and

(2) that describes the resulting improvements in cost, quality, or schedule.

(c) PARTICIPATING WORKERS.—(1) Actual worker participation in the demonstration project shall be determined through competitive selection. Not more than 15 percent of the wage grade journeyman at a demonstration project location may be selected to participate.

(2) Job descriptions and competency-based training plans must be developed for each worker while in training under the demonstration project and once certified as a multi-trade worker. A certified multi-trade worker who receives a pay grade promotion under the demonstration project must use each new skill during at least 25 percent of the worker's work week.

(d) FUNDING SOURCE.—Amounts appropriated for operation and maintenance of the Naval Aviation Depots selected to participate in the demonstration project shall be used as the source of funds to carry out the demonstration project, including the source of funds for pay increases made under the project.

(e) DURATION.—The demonstration project shall be conducted during fiscal years 2004 through 2006.

(f) REPORT.—Not later than January 15, 2007, the Secretary shall submit a report to Congress describing the results of the demonstration project.

(g) GAO EVALUATION.—The Secretary shall transmit a copy the report to the Comptroller General. Within 90 days after receiving a report, the Comptroller General shall submit to Congress an evaluation of the report.

Subtitle D—Information Technology

SEC. 331. PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT REQUIREMENTS FOR CHIEF INFORMATION OFFICERS OF DEPARTMENT OF DEFENSE.

(a) ACCOUNTABILITY.—Section 2223 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following new subsection:

''(c) PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT.—In addition to the responsibilities provided for in subsections (a) and (b), the Chief Information Officer of the Department of Defense and the Chief Information Officer of a military department shall—

''(1) encourage the use of performance-based and results-based management in fulfilling the responsibilities provided for in subsections (a) and (b), as applicable;

''(2) evaluate the information resources management practices of the department concerned with respect to the performance and results of the investments made by the department in information technology;

''(3) establish effective and efficient capital planning processes for selecting, managing, and evaluating the results of all of the department's major investments in information systems;

''(4) ensure that any analysis of the missions of the department is adequate and make recommendations, as appropriate, on the department's mission-related processes, administrative processes, and any significant investments in information technology to be used in support of those missions; and

''(5) ensure that information security policies, procedures, and practices are adequate.''.

(b) DEFENSE AGENCY RESPONSIBILITIES.—Section 2223 of title 10, United States Code, is further amended by inserting after subsection (c), as added by subsection (a), the following new subsection:

''(d) DEFENSE AGENCIES AND FIELD ACTIVITIES.—The Secretary of Defense shall require the Director of each Defense Agency and Department of Defense Field Activity to ensure that the responsibilities set forth in subsections (b) and (c) for Chief Information Officers of military departments are carried out within the Agency or Field Activity by any officer or employee acting as a chief information officer or carrying out duties similar to a chief information officer.''.

Subtitle E—Other Matters

SEC. 341. CATALOGING AND STANDARDIZATION FOR DEFENSE SUPPLY MANAGEMENT.

(a) STANDARDIZATION METHODS.—Section 2451 of title 10, United States Code, is amended to read as follows:

''§2451. Defense supply management

''(a) SINGLE CATALOG SYSTEM.—The Secretary of Defense shall adopt, implement and maintain a single catalog system for standardizing supplies for the Department of Defense. The single catalog system shall be used for each supply the Department uses, buys, stocks, or distributes.

''(b) STANDARDIZATION REQUIREMENTS.—To the highest degree practicable, the Secretary of Defense shall—

''(1) adopt and use single commercial standards or voluntary standards, in consultation with industry advisory groups, in order to eliminate overlapping and duplicate specifications for supplies for the Department of Defense and to reduce the number of sizes and kind of supplies that are generally similar;

''(2) standardize the methods of packing, packaging, and preserving supplies; and

''(3) make efficient use of the services and facilities for inspecting, testing, and accepting supplies.

''(c) CONSULTATION AND COOPERATION.—The Secretary of Defense shall maintain liaison with industry advisory groups to coordinate the development of the supply catalog and the standardization program with the best practices of industry and to obtain the fullest practicable cooperation and participation of industry in developing the supply catalog and the standardization program.''.

(b) EQUIPMENT STANDARDIZATION WITH NATO MEMBERS.—Section 2457 of such title is amended by striking subsection (d).

(c) CONFORMING REPEALS.—(1) Chapter 145 of such title is amended by striking sections 2452, 2453, and 2454.

(2) The table of sections at the beginning of such chapter is amended by striking the items related to sections 2452, 2453, and 2454.

SEC. 342. SPACE-AVAILABLE TRANSPORTATION FOR DEPENDENTS OF MEMBERS ASSIGNED TO OVERSEAS DUTY LOCATIONS FOR CONTINUOUS PERIOD IN EXCESS OF ONE YEAR.

(a) IN GENERAL.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

''§2648. Dependents of members assigned to overseas duty locations for continuous period in excess of one year: space-available transportation

''(a) AUTHORITY.—The Secretary of Defense shall authorize travel on Government aircraft on a space-available basis for dependents of members on active duty assigned to duty at an overseas location as described in subsection (b) to the same extent as such travel is authorized for a dependent of a member assigned to that duty location in a permanent change of station status.

''(b) DUTY STATUS COVERED.—Duty at an overseas location described in this subsection is duty for a continuous period in excess of one year that is in a temporary duty status or that is in a permanent duty status without change of station.

''(c) TYPES OF TRANSPORTATION AUTHORIZED.—If authorized for other members at that duty location, travel provided under this section may include (1) travel between the overseas duty location and the United States and return, and (2) travel between the overseas duty location and another overseas location and return.

''(d) ALASKA AND HAWAII.—For purposes of this section, duty in Alaska or Hawaii shall be considered to be duty at an overseas location.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2648. Dependents of members assigned to overseas duty locations for continuous period in excess of one year: space-available transportation.''.

SEC. 343. PRESERVATION OF AIR FORCE RESERVE WEATHER RECONNAISSANCE MISSION.

The Secretary of Defense shall not disestablish, discontinue, or transfer the weather reconnaissance mission of the Air Force Reserve unless the Secretary determines that another organization or entity can demonstrate that it has the capability to perform the same mission with the same capability as the Air Force Reserve.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2004, as follows:

(1) The Army, 482,375.

(2) The Navy, 375,700.

(3) The Marine Corps, 175,000.

(4) The Air Force, 361,268.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Effective October 1, 2003, section 691(b) of title 10, United States Code, is amended as follows:

(1) ARMY.—Paragraph (1) is amended by striking ''480,000'' and inserting ''482,375''.

(2) AIR FORCE.—Paragraph (4) is amended by striking ''359,000'' and inserting ''361,268''.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2004, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 85,900.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 107,000.

(6) The Air Force Reserve, 75,800.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2004, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,386.

(2) The Army Reserve, 14,374.

(3) The Naval Reserve, 14,384.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 12,140.

(6) The Air Force Reserve, 1,660.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2004 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army National Guard of the United States, 24,589.

(2) For the Army Reserve, 7,844.

(3) For the Air National Guard of the United States, 22,806.

(4) For the Air Force Reserve, 9,991.

SEC. 414. FISCAL YEAR 2004 LIMITATION ON NON-DUAL STATUS TECHNICIANS.

The number of non-dual status technicians of a reserve component of the Army or the Air Force as of September 30, 2004, may not exceed the following:

(1) For the Army Reserve, 910.

(2) For the Army National Guard of the United States, 1,600.

(3) For the Air Force Reserve, 90.

(4) For the Air National Guard of the United States, 350.

SEC. 415. PERMANENT LIMITATIONS ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

Section 10217(c) of title 10, United States Code, is amended by striking ''and Air Force Reserve may not exceed 175'' and inserting ''may not exceed 595 and by the Air Force Reserve may not exceed 90''.

Subtitle C—Authorizations of Appropriations

SEC. 421. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2004 a total of $98,938,511,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2004.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2004 from the Armed Forces Retirement Home Trust Fund the sum of $65,279,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—General and Flag Officer Matters

SEC. 501. STANDARDIZATION OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF.

(a) CHIEF OF NAVAL OPERATIONS.—Section 5033(a)(1) of title 10, United States Code, is

amended by striking ''from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above'' and inserting ''flag officers of the Navy''.

(b) COMMANDANT OF THE MARINE CORPS.—Section 5043(a)(1) of title 10, United States Code, is amended by striking ''from officers on the active-duty list of the Marine Corps not below the grade of colonel'' and inserting ''general officers of the Marine Corps''.

Subtitle B—Other Officer Personnel Policy Matters

SEC. 511. REPEAL OF PROHIBITION ON TRANSFER BETWEEN LINE OF THE NAVY AND NAVY STAFF CORPS APPLICABLE TO REGULAR NAVY OFFICERS IN GRADES ABOVE LIEUTENANT COMMANDER.

(a) REPEAL.—Section 5582 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 539 of such title is amended by striking the item relating to section 5582.

SEC. 512. RETENTION OF HEALTH PROFESSIONS OFFICERS TO FULFILL ACTIVE-DUTY SERVICE COMMITMENTS FOLLOWING PROMOTION NONSELECTION.

(a) IN GENERAL.—Section 632 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''except as provided in paragraph (3) and in subsection (c),'' before ''be discharged''; and

(3) by adding at the end the following new subsection:

''(c)(1) If a health professions officer described in paragraph (2) is subject to discharge under subsection (a)(1) and, as of the date on which the officer is to be discharged under that paragraph, the officer has not completed a period of active duty service obligation that the officer incurred under section 2005, 2114, 2123, or 2603 of this title, the officer shall be retained on active duty until completion of such active duty service obligation, and then be discharged under that subsection, unless sooner retired or discharged under another provision of law.

''(2) The Secretary concerned may waive the applicability of paragraph (1) to any officer if the Secretary determines that completion of the active duty service obligation of that officer is not in the best interest of the service.

''(3) This subsection applies to a medical officer or dental officer or an officer appointed in a medical skill other than as a medical officer or dental officer (as defined in regulations prescribed by the Secretary of Defense).''.

(b) TECHNICAL AMENDMENTS.—Sections 630(2), 631(a)(3), and 632(a)(3) of such title are amended by striking ''clause'' and inserting ''paragraph''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply in the case of an officer who as of the date of the enactment of this Act is required to be discharged under section 632(a)(1) of title 10, United States Code, by reason of having failed of selection for promotion to the next higher regular grade a second time.

SEC. 513. INCREASED FLEXIBILITY FOR VOLUNTARY RETIREMENT FOR MILITARY OFFICERS.

(a) IN GENERAL.—Section 1370 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''except as provided in paragraph (2)'' and inserting ''subject to paragraphs (2) and (3)''; and

(ii) by striking '', for not less than six months'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by striking paragraph (2) and inserting the following:

''(2) In order to be eligible for voluntary retirement under this title in a grade below the grade of lieutenant colonel or commander, a commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by paragraph (1) must have served on active duty in that grade for not less than six months.

''(3)(A) In order to be eligible for voluntary retirement in a grade above major or lieutenant commander and below brigadier general or rear admiral (lower half), a commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by paragraph (1) must have served on active duty in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of the military department concerned to reduce such period to a period not less than two years.

''(B) In order to be eligible for voluntary retirement in a grade above colonel or captain, in the case of the Navy, a commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by paragraph (1) must have served on active duty in that grade for not less than one year.

''(C) An officer in a grade above major general or rear admiral may be retired in the highest grade in which the officer served on active duty satisfactorily for not less than one year, upon approval by the Secretary of the military department concerned and concurrence by the Secretary of Defense. The function of the Secretary of Defense under the preceding sentence may only be delegated to a civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

''(D) The President may waive subparagraph (A), (B) or (C) in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under the preceding sentence may not be delegated.'';

(2) in subsection (b), by inserting ''or whose service on active duty in that grade was not determined to be satisfactory by the Secretary of the military department concerned'' after ''specified in subsection (a)'';

(3) by striking subsection (c); and

(4) by redesignating subsection (d) as subsection (c) and in that subsection—

(A) in paragraph (3)—

(i) in subparagraph (A)—

(I) by inserting ''(i)'' after ''(3)(A)'';

(II) by inserting ''and below brigadier general or rear admiral (lower half)'' after ''lieutenant commander'';

(III) by inserting '', except that the Secretary of Defense may authorize the Secretary of the military department concerned to reduce such period to a period not less than two years'' after ''three years''; and

(IV) by adding at the end the following new clauses:

''(ii) In order to be credited with satisfactory service in a grade above colonel or captain, in the case of the Navy, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in active status, or in a retired status on active duty, for not less than one year.

''(iii) An officer covered by paragraph (1) who is in a grade above the grade of major general or rear admiral may be retired in the highest grade in which the officer served satisfactorily for not less than one year, upon approval by the Secretary of the military department concerned and concurrence by the Secretary of Defense. The function of the Secretary of Defense under the preceding sentence may only be delegated to a civilian official in the Office of the Secretary of Defense appointed by the president, by and with the advice and consent of the Senate.'';

(ii) in subparagraphs (D) and (E), by striking subparagraph (A)'' and inserting ''subparagraph (A)(i)''; and

(iii) by striking subparagraph (F); and

(B) by striking paragraphs (5) and (6); and

(5) by striking subsection (e).

(b) CONFORMING AMENDMENTS.—Section 1406(i)(2) of such title is amended—

(1) in the paragraph heading, by striking ''MEMBERS'' and all that follows through ''SATISFACTORILY'' and inserting ''ENLISTED MEMBERS REDUCED IN GRADE'';

(2) by striking ''a member'' and inserting ''an enlisted member'';

(3) by striking ''1998—'' and all that follows through ''is reduced in'' and inserting ''1998, is reduced in'';

(4) by striking ''; or'' and inserting a period; and

(5) by striking subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the determination of the retired grade of members of the Armed Forces retiring on or after the date of the enactment of this Act.

Subtitle C—Reserve Component Matters

SEC. 521. STREAMLINED PROCESS FOR CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST.

(a) REPEAL OF REQUIREMENT FOR USE OF SELECTION BOARDS.—Section 14701 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''by a selection board convened under section 14101(b) of this title'' and inserting ''under regulations prescribed by the Secretary of Defense; and

(B) in paragraph (6), by striking ''as a result of the convening of a selection board under section 14101(b) of this title'' and inserting ''under regulations prescribed under paragraph (1)'';

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(b) CONFORMING AMENDMENTS.—(1) Section 14101(b) of such title is amended—

(A) by striking ''CONTINUATION BOARDS'' and inserting ''SELECTIVE EARLY SEPARATION BOARDS'';

(B) by striking paragraph (1);

(C) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(D) by striking the last sentence.

(2) Section 14102(a) of such title is amended by striking ''Continuation boards'' and inserting ''Selection boards convened under section 14101(b) of this title''.

(3) Section 14705(b)(1) of such title is amended by striking ''continuation board'' and inserting ''selection board''.

SEC. 522. CONSIDERATION OF RESERVE OFFICERS FOR POSITION VACANCY PROMOTIONS IN TIME OF WAR OR NATIONAL EMERGENCY.

(a) PROMOTION CONSIDERATION WHILE ON ACTIVE-DUTY LIST.—(1) Subsection (d) of section 14317 of title 10, United States Code, is amended by striking ''If a reserve officer'' and inserting ''Except as provided in subsection (e), if a reserve officer''.

(2) Subsection (e) of such section is amended to read as follows:

''(e) OFFICERS ORDERED TO ACTIVE DUTY IN TIME OF WAR OR NATIONAL EMERGENCY.—(1) A reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion—

''(A) by a mandatory promotion board convened under section 14101(a) of this title or a special selection board convened under section 14502 of this title; or

''(B) in the case of an officer who has been ordered to or is serving on active duty in support of a contingency operation, by a vacancy promotion board convened under section 14101(a) of this title.

''(2) An officer may not be considered for promotion under this subsection after the end of the two-year period beginning on the date on which the officer is ordered to active duty.

''(3) An officer may not be considered for promotion under this subsection during a period

when the operation of this section has been suspended by the President under the provisions of section 123 or 10213 of this title.

''(4) Consideration of an officer for promotion under this subsection shall be under regulations prescribed by the Secretary of the military department concerned.''.

(b) CONFORMING AMENDMENT.—Section 14315(a)(1) of such title is amended by striking ''as determined by the Secretary concerned, is available'' and inserting ''under regulations prescribed by the Secretary concerned, has been recommended''.

SEC. 523. SIMPLIFICATION OF DETERMINATION OF ANNUAL PARTICIPATION FOR PURPOSES OF READY RESERVE TRAINING REQUIREMENTS.

Subsection (a) of section 10147 of title 10, United States Code, is amended to read as follows:

''(a)(1) Except as provided pursuant to paragraph (2), each person who is enlisted, inducted, or appointed in an armed force and who becomes a member of the Ready Reserve under any provision of law other than section 513 or 10145(b) of this title shall be required, while in the Ready Reserve, to participate in a combination of drills, training periods, and active duty equivalent to 38 days (exclusive of travel) during each year.

''(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may prescribe regulations providing specific exceptions for the requirements of paragraph (1).''.

SEC. 524. AUTHORITY FOR DELEGATION OF REQUIRED SECRETARIAL SPECIAL FINDING FOR PLACEMENT OF CERTAIN RETIRED MEMBERS IN READY RESERVE.

The last sentence of section 10145(d) of title 10, United States Code, is amended to read as follows: ''The authority of the Secretary concerned under the preceding sentence may not be delegated—

''(1) to a civilian officer or employee of the military department concerned below the level of the Assistant Secretary of the military department concerned; or

''(2) to a member of the armed forces below the level of the lieutenant general or vice admiral in an armed force with responsibility for military personnel policy in that armed force.''.

SEC. 525. AUTHORITY TO PROVIDE EXPENSES OF ARMY AND AIR STAFF PERSONNEL AND NATIONAL GUARD BUREAU PERSONNEL ATTENDING NATIONAL CONVENTIONS OF CERTAIN MILITARY ASSOCIATIONS.

(a) AUTHORITY.—Section 107(a)(2) of title 32, United States Code, is amended—

(1) by striking ''officers'' and inserting ''members'';

(2) by striking ''Army General Staff'' and inserting ''Army Staff''; and

(3) by striking ''National Guard Association of the United States'' and inserting '', Enlisted Association of the National Guard of the United States, National Guard Association of the United States,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply with respect to funds appropriated for a fiscal year before fiscal year 2004.

Subtitle D—Military Education and Training

SEC. 531. AUTHORITY FOR THE MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF OPERATIONAL STUDIES.

(a) AUTHORITY.—Section 7102 of title 10, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) COMMAND AND STAFF COLLEGE OF THE MARINE CORP UNIVERSITY.—Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of operational studies upon graduates of the Command and Staff College's School of Advanced Warfighting who fulfill the requirements for that degree.''.

(b) EFFECTIVE DATE.—The authority to confer the degree of master of operational studies under section 7102(c) of title 10, United States Code (as added by subsection (a)) may not be exercised until the Secretary of Education determines, and certifies to the President of the Marine Corps University, that the requirements established by the Command and General Staff College of the Marine Corps University for that degree are in accordance with generally applicable requirements for a degree of master of arts. Upon receipt of such a certification, the President of the University shall promptly transmit a copy of the certification to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives.

SEC. 532. EXPANDED EDUCATIONAL ASSISTANCE AUTHORITY FOR CADETS AND MIDSHIPMEN RECEIVING ROTC SCHOLARSHIPS.

(a) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE ON ACTIVE DUTY.—Section 2107(c) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

''(3) In the case of a cadet or midshipman eligible to receive financial assistance under paragraph (1) or (2), the Secretary of the military department concerned may, in lieu of all or part of the financial assistance described in paragraph (1), provide financial assistance in the form of room and board expenses for the cadet or midshipman and other expenses required by the educational institution.

''(4) The total amount of financial assistance, including the payment of room and board and other educational expenses, provided to a cadet or midshipman in an academic year under this subsection may not exceed an amount equal to the amount that could be provided as financial assistance for such cadet or midshipman under paragraph (1) or (2), or other amount determined by the Secretary concerned, without regard to whether room and board and other educational expenses for such cadet or midshipman are paid under paragraph (3).''.

''(b) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE IN TROOP PROGRAM UNITS.—Section 2107a(c) of such title is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding at the end the following new paragraphs:

''(2) In the case of a cadet eligible to receive financial assistance under paragraph (1), the Secretary of the military department concerned may, in lieu of all or part of the financial assistance described in paragraph (1), provide financial assistance in the form of room and board expenses for such cadet and other expenses required by the educational institution.

''(3) The total amount of financial assistance, including the payment of room and board and any other educational expenses, provided to a cadet in an academic year under this subsection may not exceed an amount equal to the amount that could be provided as financial assistance for such cadet under paragraph (1), or other amount determined by the Secretary of the Army, without regard to whether the room and board and other educational expenses for such cadet are paid under paragraph (2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payment of expenses of cadets and midshipmen of the Senior Reserve Officers' Training Corps program that are due after the date of the enactment of this Act.

SEC. 533. INCREASE IN ALLOCATION OF SCHOLARSHIPS UNDER ARMY RESERVE ROTC SCHOLARSHIP PROGRAM TO STUDENTS AT MILITARY JUNIOR COLLEGES.

Section 2107a(h) of title 10, United States Code, is amended by striking ''10'' each place it appears and inserting ''17''.

SEC. 534. INCLUSION OF ACCRUED INTEREST IN AMOUNTS THAT MAY BE REPAID UNDER SELECTED RESERVE CRITICAL SPECIALTIES EDUCATION LOAN REPAYMENT PROGRAM.

Section 16301 of title 10, United States Code, is amended—

(1) in subsection (b), by inserting before the period at the end the following: '', plus the amount of any interest that may accrue during the current year''; and

(2) in subsection (c), by adding at the end the following new sentence: ''For the purposes of this section, any interest that has accrued on the loan for periods before the current year shall be considered as within the total loan amount that shall be repaid.''.

SEC. 535. AUTHORITY FOR NONSCHOLARSHIP SENIOR ROTC SOPHOMORES TO VOLUNTARILY CONTRACT FOR AND RECEIVE SUBSISTENCE ALLOWANCE.

(a) AUTHORITY FOR ALLOWANCE.—Section 209 of title 37, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) NONSCHOLARSHIP SENIOR ROTC MEMBERS NOT IN ADVANCED TRAINING.—A member of the Selected Reserve Officers' Training Corps who has entered into an agreement under section 2103a of title 10 is entitled to a monthly subsistence allowance at a rate prescribed under subsection (a). The allowance may be paid to the member for a maximum of 20 months.''.

(b) AUTHORITY TO ACCEPT ENROLLMENT.—(1) Chapter 103 of title 10, United States Code, is amended by inserting after section 2103 the following new section:

''§2103a. Students not eligible for advanced training: commitment to military service

''(a) A member of the program who has completed successfully the first year of a four-year Senior Reserve Officers' Training Corps course and who is not eligible for advanced training under section 2104 of this title and is not a cadet or midshipman appointed under section 2107 of this title may—

''(1) contract with the Secretary of the military department concerned, or the Secretary's designated representative, to serve for the period required by the program; and

''(2) agree in writing to accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and to serve in the armed forces for the period prescribed by the Secretary.

''(b) A member of the program may enter into a contract and agreement under this section (and receive a subsistence allowance under section 209(c) of title 37) only if the person—

''(1) is a citizen of the United States;

''(2) enlists in an armed force under the jurisdiction of the Secretary of the military department concerned for the period prescribed by the Secretary; and

''(3) executes a certificate of loyalty in such form as the Secretary of Defense prescribes or take a loyalty oath as prescribed by the Secretary.

''(c) A member of the program who is a minor may enter into a contract under subsection (a)(1) only with the consent of the member's parent or guardian.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2103a. Students not eligible for advanced training: commitment to military service.''.

SEC. 536. APPOINTMENTS TO MILITARY SERVICE ACADEMIES FROM NOMINATIONS MADE BY DELEGATES FROM GUAM, VIRGIN ISLANDS, AND AMERICAN SAMOA.

(a) UNITED STATES MILITARY ACADEMY.—Section 4342(a) of title 10, United States Code, is amended—

(1) in paragraphs (6) and (8), by striking ''Two'' and inserting ''Three''; and

(2) in paragraph (9), by striking ''One'' and inserting ''Two''.

(b) UNITED STATES NAVAL ACADEMY.—Section 6954(a) of such title is amended—

(1) in paragraphs (6) and (8), by striking ''Two'' and inserting ''Three''; and

(2) in paragraph (9), by striking ''One'' and inserting ''Two''.

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9342(a) of such title is amended—

(1) in paragraphs (6) and (8), by striking ''Two'' and inserting ''Three''; and

(2) in paragraph (9), by striking ''One'' and inserting ''Two''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the nomination of candidates for appointment to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy for classes entering those academies after the date of the enactment of this Act.

SEC. 537. READMISSION TO SERVICE ACADEMIES OF CERTAIN FORMER CADETS AND MIDSHIPMEN.

(a) INSPECTOR GENERAL REPORT AS BASIS FOR READMISSION.—(1) When a formal report by an Inspector General within the Department of Defense concerning the circumstances of the separation of a cadet or midshipman from one of the service academies contains a specific finding specified in paragraph (2), the Secretary of the military department concerned may use that report as the sole basis for readmission of the former cadet or midshipman to the respective service or service academy.

(2) A finding specified in this paragraph is a finding that substantiates that a former service academy cadet or midshipman, while attending the service academy—

(A) received administrative or punitive action or nonjudicial punishment as a result of reprisal;

(B) resigned in lieu of disciplinary, administrative, or other action that the formal report concludes constituted a threat of reprisal; or

(C) otherwise suffered an injustice that contributed to the resignation of the cadet or midshipman.

(b) READMISSION.—In the case of a formal report by an Inspector General described in subsection (a), the Secretary concerned shall offer the former cadet or midshipman an opportunity for readmission to the service academy from which the former cadet or midshipman resigned, if the former cadet or midshipman is otherwise eligible for such readmission.

(c) APPLICATIONS FOR READMISSION.—A former cadet or midshipman described in a report referred to in subsection (a) may apply for readmission to the service academy on the basis of that report and shall not be required to submit the request for readmission through a board for the correction of military records.

(d) REGULATIONS TO MINIMIZE ADVERSE IMPACT UPON READMISSION.—The Secretary of each military department shall prescribe regulations for the readmission of a former cadet or midshipman described in subsections (a), with the goal, to the maximum extent practicable, of readmitting the former cadet or midshipman at no loss of the academic or military status held by the former cadet at the time of resignation.

(e) CONSTRUCTION WITH OTHER REMEDIES.—This section does not preempt or supercede any other remedy that may be available to a former cadet or midshipman.

(f) SERVICE ACADEMIES.—In this section, the term ''service academy'' means the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

SEC. 538. AUTHORIZATION FOR NAVAL POSTGRADUATE SCHOOL TO PROVIDE INSTRUCTION TO ENLISTED MEMBERS PARTICIPATING IN CERTAIN PROGRAMS.

(a) INSTRUCTION OF ENLISTED MEMBERS.—Subsection (a) of section 7045 of title 10, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) The Secretary may permit enlisted members of the armed forces to receive instruction at the Naval Postgraduate School for the purpose of attending—

''(A) executive level seminars; or

''(B) the information security scholarship program under chapter 112 of this title.

''(3) In addition to instruction authorized under paragraph (2), the Secretary may, on a space-available basis, permit an enlisted member of any of the armed forces to receive instruction at the Naval Postgraduate School if the member is assigned permanently to the staff of the Naval Postgraduate School or to a nearby command.''.

(b) REIMBURSEMENT.—Subsection (b) of such section is amended—

(1) by striking ''The Department'' and inserting ''(1) Except as provided under paragraph (3), the Department '';

(2) by striking ''officers'' in the first sentence and inserting ''members'';

(3) by designating the second sentence as paragraph (2) and in that sentence—

(A) by inserting ''under subsection (a)(3)'' after ''permitted'';

(B) by inserting ''on a space-available basis'' after ''instruction at the Postgraduate School''; and

(C) by striking ''(taking into consideration the admission of enlisted members on a space-available basis)''; and

(4) by adding at the end the following new paragraph:

''(3) The Secretary of Defense may prescribe exceptions to the requirements of paragraph (1) with regard to attendance at the Postgraduate School pursuant to chapter 112 of this title.''.

SEC. 539. DEFENSE TASK FORCE ON SEXUAL HARASSMENT AND VIOLENCE AT THE MILITARY SERVICE ACADEMIES.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Department of Defense task force to examine matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy.

(b) RECOMMENDATIONS.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary of Defense a report recommending ways by which the Department of Defense and the military services may more effectively address matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy. The report shall include an assessment of, and recommendations (including changes in law) for measures to improve, the following with respect to sexual harassment and violence at those academies:

(1) Victims' safety programs.

(2) Offender accountability.

(3) Effective prevention of sexual harassment and violence.

(4) Collaboration among military organizations with responsibility or jurisdiction with respect to sexual harassment and violence.

(5) Coordination between military and civilian communities, including local support organizations, with respect to sexual harassment and violence.

(6) Coordination between military and civilian communities, including civilian law enforcement relating to acts of sexual harassment and violence.

(7) Data collection and case management and tracking.

(8) Curricula and training, including standard training programs for cadets at the United States Military Academy and midshipmen at the United States Naval Academy and for permanent personnel assigned to those academies.

(9) Responses to sexual harassment and violence at those academies, including standard guidelines.

(10) Other issues identified by the task force relating to sexual harassment and violence at those academies.

(c) METHODOLOGY.—The task force shall consider the findings and recommendations of previous reviews and investigations of sexual harassment and violence conducted for those academies as one of the bases for its assessment.

(d) REPORT.—(1) The task force shall submit to the Secretary of Defense and the Secretaries of the Army and the Navy a report on the activities of the task force and on the activities of the United States Military Academy and the United States Naval Academy to respond to sexual harassment and violence at those academies.

(2) The report shall include the following:

(A) Any barriers to implementation of improvements as a result of those efforts.

(B) Other areas of concern not previously addressed in prior reports.

(C) The findings and conclusions of the task force.

(D) Any recommendations for changes to policy and law as the task force considers appropriate, including whether cases of sexual assault at those academies should be included in the Department of Defense database known as the Defense Incident-Based Reporting System.

(3) Within 90 days of receipt of the report under paragraph (1) the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

(e) REPORT ON AIR FORCE ACADEMY.—Simultaneously with the submission of the report under subsection (d)(3), the Secretary of Defense, in coordination with the Secretary of the Air Force, shall submit to the committees specified in that subsection the Secretary's assessment of the effectiveness of corrective actions being taken at the United States Air Force Academy as a result of various investigations conducted at that Academy into matters involving sexual assault and harassment.

(f) COMPOSITION.—(1) The task force shall consist of not more than 14 members, to be appointed by the Secretary of Defense. Members shall be appointed from each of the Army, Navy, Air Force, and Marine Corps, and shall include an equal number of personnel of the Department of Defense (military and civilian) and persons from outside the Department of Defense. Members appointed from outside the Department of Defense may be appointed from other Federal departments and agencies, from State and local agencies, or from the private sector.

(2) The Secretary shall ensure that the membership of the task force appointed from the Department of Defense includes at least one judge advocate.

(3) In appointing members to the task force, the Secretary may—

(A) consult with the Attorney General regarding a representative from the Office of Violence Against Women of the Department of Justice; and

(B) consult with the Secretary of Health and Human Services regarding a representative from the Women's Health office of the Department of Health and Human Services.

(4) Each member of the task force appointed from outside the Department of Defense shall be an individual who has demonstrated expertise in the area of sexual harassment and violence or shall be appointed from one of the following:

(A) A representative from the Office of Civil Right in the Department of Education.

(B) A representative from the Center for Disease Control.

(C) A sexual assault policy and advocacy organization.

(D) A civilian law enforcement agency.

(E) A judicial policy organization.

(F) A national crime victim policy organization.

(5) The members of the task force shall be appointed not later than 120 days after the date of the enactment of this Act.

(g) CO-CHAIRS OF THE TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel on the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by those members.

(h) ADMINISTRATIVE SUPPORT.—(1) Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be appointed in accordance with, and subject to, section 3161 of title 5, United States Code.

(2) The Deputy Under Secretary of Defense for Personnel and Readiness, under the direction of the Under Secretary of Defense for Personnel and Readiness, shall provide oversight of the task force. The Washington Headquarters Service of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the task force's duties.

(3) The Deputy Under Secretary shall coordinate with the Secretary of the Army to provide visits of the task force to the United States Military Academy and with the Secretary of the Navy to provide visits of the task force to the United States Naval Academy.

(i) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (d)(3).

Subtitle E—Administrative Matters

SEC. 541. ENHANCEMENTS TO HIGH-TEMPO PERSONNEL PROGRAM.

(a) REVISIONS TO DEPLOYMENT LIMITS AND AUTHORITY TO AUTHORIZE EXEMPTIONS.—Subsection (a) of section 991 of title 10, United States Code, is amended to read as follows:

''(a) SERVICE AND GENERAL OR FLAG OFFICER RESPONSIBILITIES.—(1) Subject to paragraph (3), the deployment (or potential deployment) of members of the armed forces shall be managed to ensure that a member is not deployed, or continued in a deployment, on any day on which the total number of days on which the member has been deployed out of the preceding 730 days would exceed the high-deployment threshold.

''(2) In this subsection, the term 'high-deployment threshold' means—

''(A) 400 days; or

''(B) a lower number of days prescribed by the Secretary of Defense.

''(3) A member may be deployed, or continued in a deployment, without regard to paragraph (1) if the deployment, or continued deployment, is approved by the Secretary of Defense. The authority of the Secretary under the preceding sentence may only be delegated to—

''(A) a civilian officer of the Department of Defense appointed by the President, by and with the advise and consent of the Senate, or a member of the Senior Executive Service; or

''(B) a general or flag officer in that member's chain of command (including an officer in the grade of colonel, or in the case of the Navy, captain, serving an in a general or flag officer position who has been selected for promotion to the grade of brigadier general or rear admiral (lower half)).''.

(b) CHANGES FROM PER DIEM TO HIGH-DEPLOYMENT ALLOWANCE.—(1) Subsection (a) of section 436 of title 37, United States Code, is amended to read as follows:

''(a) MONTHLY ALLOWANCE.—The Secretary of the military department concerned shall pay a high-deployment allowance to a member of the armed forces under the Secretary's jurisdiction for each month during which the member—

''(1) is deployed; and

''(2) at any time during that month—

''(A) has been deployed for 191 or more consecutive days (or a lower number of consecutive days prescribed by the Secretary of Defense);

''(B) has been deployed, out of the preceding 730 days, for a total of 401 or more days (or a lower number of days prescribed by the Secretary of Defense); or

''(C) in the case of a member of a reserve component, is on active duty under a call or order to active duty for a period of more than 30 days that is the second (or later) such call or order to active duty (whether voluntary or involuntary) for that member in support of the same contingency operation.''.

(2) Subsection (c) of such section is amended to read as follows:

''(c) RATE.—The monthly rate of the allowance payable to a member under this section shall be determined by the Secretary concerned, not to exceed $1,000 per month.''.

(3) Such section is further amended—

(A) in subsection (d), by striking ''per diem'';

(B) in subsection (e), by striking ''per diem'' and inserting ''allowance'';

(C) in subsection (f)—

(i) by striking ''per diem'' and inserting ''allowance''; and

(ii) by striking ''day on'' and inserting ''month during''; and

(D) by adding at the end the following new subsection:

''(g) AUTHORITY TO EXCLUDE CERTAIN DUTY ASSIGNMENTS.—The Secretary concerned may exclude members serving in specified duty assignments from eligibility for the high-deployment allowance while serving in those assignments. Any such specification of duty assignments may only be made with the approval of the Secretary of Defense. Specification of a particular duty assignment for purposes of this subsection may not be implemented so as to apply to the member serving in that position at the time of such specification.''.

(4)(A) The heading of such section is amended to read as follows:

''§436. Monthly high-deployment allowance for lengthy or numerous deployments''.

(B) The item relating to that section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

''436. Monthly high-deployment allowance for lengthy or numerous deployments.''.

(c) CHANGES TO REPORTING REQUIREMENT.—Section 487(b)(5) of title 10, United States Code, is amended to read as follows:

''(5) For each of the armed forces, the description shall indicate, for the period covered by the report—

''(A) the number of members who received the high-deployment allowance under section 436 of title 37;

''(B) the number of members who received each rate of allowance paid;

''(C) the number of members who received the allowance for one month, for two months, for three months, for four months, for five months, for six months, and for more than six months; and

''(D) the total amount spent on the allowance.''.

SEC. 542. ENHANCED RETENTION OF ACCUMULATED LEAVE FOR HIGH-DEPLOYMENT MEMBERS.

(a) ENHANCED AUTHORITY TO RETAIN ACCUMULATED LEAVE.—Paragraph (1) of section 701(f) of title 10, United States Code, is amended to read as follows:

''(f)(1)(A) The Secretary concerned, under uniform regulations to be prescribed by the Secretary of Defense, may authorize a member described in subparagraph (B) who, except for this paragraph, would lose any accumulated leave in excess of 60 days at the end of the fiscal year, to retain an accumulated total of 120 days leave.

''(B) This subsection applies to a member who serves on active duty for a continuous period of at least 120 days—

''(i) in an area in which the member is entitled to special pay under section 310(a) of title 37; or

''(ii) while assigned to a deployable ship or mobile unit or to other duty comparable to that specified in clause (i) that is designated for the purpose of this subsection.

''(C) Except as provided in paragraph (2), Leave in excess of 60 days accumulated under this paragraph is lost unless it is used by the member before the end of the third fiscal year after the fiscal year in which the continuous period of service referred to in subparagraph (B) terminated.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003, or the date of the enactment of this Act, whichever is later.

SEC. 543. STANDARDIZATION OF TIME-IN-SERVICE REQUIREMENTS FOR VOLUNTARY RETIREMENT OF MEMBERS OF THE NAVY AND MARINE CORPS WITH ARMY AND AIR FORCE REQUIREMENTS.

(a) OFFICERS IN REGULAR NAVY OR MARINE CORPS WHO COMPLETED 40 YEARS OF ACTIVE SERVICE.—Section 6321(a) of title 10, United States Code, is amended by striking ''after completing 40 or more years'' and inserting ''and has at least 40 years''.

(b) OFFICERS IN REGULAR NAVY OR MARINE CORPS WHO COMPLETED 30 YEARS OF ACTIVE SERVICE.—Section 6322(a) of such title is amended by striking ''after completing 30 or more years'' and inserting ''and has at least 30 years''.

(c) OFFICERS IN NAVY OR MARINE CORPS WHO COMPLETED 20 YEARS OF ACTIVE SERVICE.—Section 6323(a)(1) of such title is amended by striking ''after completing more than 20 years'' and inserting ''and has at least 20 years''.

(d) ENLISTED MEMBERS IN REGULAR NAVY OR MARINE CORPS WHO COMPLETED 30 YEARS OF ACTIVE SERVICE.—Section 6326(a) of such title is amended by striking ''after completing 30 or more years'' and inserting ''and has at least 30 years''.

(e) TRANSFER OF ENLISTED MEMBERS TO THE FLEET RESERVE AND FLEET MARINE CORPS RESERVE.—Section 6330(b) of such title is amended by striking ''who has completed 20 or more years'' both places it appears and inserting ''who has at least 20 years''.

(f) TRANSFER OF MEMBERS OF THE FLEET RESERVE AND FLEET MARINE CORPS RESERVE TO THE RETIRED LIST.—Section 6331(a) of such title is amended by striking ''completed 30 years'' and inserting ''has at least 30 years''.

(g) EFFECTIVE DATE.—The Secretary of the Navy shall prescribe the date on which the amendments made by this section shall take effect. The Secretary shall publish such date, when prescribed, in the Federal Register.

SEC. 544. STANDARDIZATION OF STATUTORY AUTHORITIES FOR EXEMPTIONS FROM REQUIREMENT FOR ACCESS TO SECONDARY SCHOOLS BY MILITARY RECRUITERS.

(a) CONSISTENCY WITH ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Paragraph (5) of section 503(c) of title 10, United States Code, is amended by striking ''apply to—'' and all that follows through ''school which'' and inserting ''apply to a private secondary school that''.

(b) CORRECTION OF CROSS REFERENCE.—Paragraph (6)(A)(i) of such section is amended by striking ''14101'' and ''8801'' and inserting ''9101'' and ''7801'', respectively.

SEC. 545. PROCEDURES FOR CONSIDERATION OF APPLICATIONS FOR AWARD OF THE PURPLE HEART MEDAL TO VETERANS HELD AS PRISONERS OF WAR BEFORE APRIL 25, 1962.

Subsection (b) of section 521 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 309; 10 U.S.C. 1129 note) is amended to read as follows:

''(b) STANDARDS AND PROCEDURES FOR AWARD.—In determining whether a former prisoner of war is eligible for the award of the Purple Heart under subsection (a), the Secretary concerned shall apply the following procedures:

''(1) The standard to be used by the Secretary concerned for awarding the Purple Heart under this section shall be to award the Purple Heart in any case in which a prisoner of war (A) was wounded while in captivity, or (B) while in captivity was subjected to systematic and prolonged deprivation of food, medical treatment, and other forms of deprivation or mistreatment likely to have prolonged aftereffects on the individual concerned.

''(2) When a former prisoner of war applies for the Purple Heart under subsection (a), the Secretary concerned may request the former prisoner of war to provide any documentation that the Secretary would otherwise require, but failure of the former prisoner of war to provide such documentation shall not by itself be a disqualification for award of the Purple Heart.

''(3) The Secretary concerned shall inform the former prisoner of war that historical information as to the prison camp or other circumstances in which the former prisoner of war was held captive and other information as to the circumstances of the former prisoner of war's captivity may be considered by the Secretary in evaluating the application for the award of the Purple Heart and that the former prisoner of war may submit such information.

''(4) The Secretary concerned shall provide assistance to the applicant for the Purple Heart in obtaining information referred to in paragraph (3).

''(5) The Secretary shall review a completed application under this section based upon the totality of the evidence presented and shall take into account the length of time between the period during which the applicant was held as a prisoner of war and the date of the application.

''(6) In considering an application under this section, the Secretary shall take into account the length of time that the applicant was held in captivity, which while not in itself establishing entitlement of the applicant to award of the Purple Heart, can and should be a factor in determining whether a former prisoner of war was likely to have been wounded, starved, or denied medical treatment to the extent likely to have prolonged aftereffects on the individual concerned.''.

SEC. 546. AUTHORITY FOR RESERVE AND RETIRED REGULAR OFFICERS TO HOLD STATE AND LOCAL ELECTIVE OFFICE NOTWITHSTANDING CALL TO ACTIVE DUTY.

Section 973(b)(3) of title 10, United States Code, is amended—

(1) by inserting ''(A)'' after ''(3)''; and

(2) by adding at the end the following:

''(B) The prohibition in subparagraph (A) does not apply to the functions of a civil office held by election, in the case of an officer to whom this subsection applies by reason of subparagraph (B) or (C) of paragraph (1).''.

SEC. 547. CLARIFICATION OF OFFENSE UNDER THE UNIFORM CODE OF MILITARY JUSTICE RELATING TO DRUNKEN OR RECKLESS OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.

Section 551 of title 10, United States Code (article 111 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)(2) by striking ''in excess of'' and inserting ''at, or in excess of,''; and

(2) in subsection (b)(4), by striking ''maximum permissible'' and all that follows through the period at the end and inserting ''amount of alcohol concentration in a person's blood or breath at which operation or control of a vehicle, aircraft, or vessel is prohibited.''.

SEC. 548. PUBLIC IDENTIFICATION OF CASUALTIES NO SOONER THAN 24 HOURS AFTER NOTIFICATION OF NEXT-OF-KIN.

The Secretary of Defense may not publicly release the name or other personally identifying information of any member of the Army, Navy, Air Force, or Marine Corps who while on active duty or performing inactive duty training is killed or injured, whose duty status becomes unknown, or who is otherwise considered to be a casualty until a period of 24 hours has elapsed after the notification of the next-of-kin of such member.

Subtitle F—Benefits

SEC. 551. ADDITIONAL CLASSES OF INDIVIDUALS ELIGIBLE TO PARTICIPATE IN THE FEDERAL LONG-TERM CARE INSURANCE PROGRAM.

(a) CERTAIN EMPLOYEES OF THE DISTRICT OF COLUMBIA GOVERNMENT.—Section 9001(1) of title 5, United States Code, is amended by striking ''2105(c),'' and all that follows and inserting ''2105(c).''.

(b) FORMER FEDERAL EMPLOYEES WHO WOULD BE ELIGIBLE TO BEGIN RECEIVING AN ANNUITY UPON ATTAINING THE REQUISITE MINIMUM AGE.—Section 9001(2) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) any former employee who, on the basis of his or her service, would meet all requirements for being considered an 'annuitant' within the meaning of subchapter III of chapter 83, chapter 84, or any other retirement system for employees of the Government, but for the fact that such former employee has not attained the minimum age for title to annuity.''.

(c) RESERVISTS TRANSFERRED TO THE RETIRED RESERVE WHO ARE UNDER AGE 60.—Section 9001(4) of title 5, United States Code, is amended by striking ''including'' and all that follows through ''who has'' and inserting ''and a member who has been transferred to the Retired Reserve and who would be entitled to retired pay under chapter 1223 of title 10 but for not having''.

SEC. 552. AUTHORITY TO TRANSPORT REMAINS OF RETIREES AND RETIREE DEPENDENTS WHO DIE IN MILITARY TREATMENT FACILITIES OUTSIDE THE UNITED STATES.

(a) AUTHORIZED TRANSPORTATION.—Section 1490 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ''located in the United States''; and

(2) in subsection (b)(1), by striking ''outside the United States or to a place''.

(b) CONFORMING AMENDMENT.—Subsection (c) of such section is amended to read as follows:

''(c) DEFINITION OF DEPENDENT.—In this section, the term 'dependent' has the meaning given such term in section 1072(2) of this title.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to persons dying on or after the date of the enactment of this Act.

SEC. 553. ELIGIBILITY FOR DEPENDENTS OF CERTAIN MOBILIZED RESERVISTS STATIONED OVERSEAS TO ATTEND DEFENSE DEPENDENTS SCHOOLS OVERSEAS.

(a) TUITION-FREE STATUS PARITY WITH DEPENDENTS OF OTHER RESERVISTS.—Section 1404(c) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 923(c)) is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding at the end the following new paragraph:

''(2)(A) The Secretary shall include in the regulations prescribed under this subsection a requirement that children in the class of children described in subparagraph (B) shall be subject to the same tuition requirements, or waiver of tuition requirements, as children in the class of children described in subparagraph (C).

''(B) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

''(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10, United States Code;

''(ii) were ordered to active duty from a location in the United States (other than in Alaska or Hawaii); and

''(iii) are serving on active duty outside the United States or in Alaska or Hawaii in a tour of duty that (voluntarily or involuntarily) has been extended to a period in excess of one year.

''(C) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

''(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10, United States Code;

''(ii) were ordered to active duty from a location outside the United States (or in Alaska or Hawaii); and

''(iii) are serving on active duty outside the United States or in Alaska or Hawaii.''.

(b) CLERICAL AMENDMENT.—The heading of such section is amended to read as follows:

''SPACE-AVAILABLE ENROLLMENT OF STUDENTS; TUITION''.

(c) IMPLEMENTATION OF REQUIRED NEW REGULATIONS.—Regulations required by paragraph (2) of section 1404(c) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 923(c)), as added by subsection (a), shall be prescribed as soon as practicable after the date of the enactment of this Act in order to provide the earliest opportunity for dependents covered by that paragraph to enroll in Department of Defense dependents' schools, and in no event later than the beginning of the first school term beginning after the date of the enactment of this Act.

Subtitle G—Other Matters

SEC. 561. EXTENSION OF REQUIREMENT FOR EXEMPLARY CONDUCT BY COMMANDING OFFICERS AND OTHERS IN AUTHORITY TO INCLUDE CIVILIANS IN AUTHORITY IN THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 992. Requirement of exemplary conduct: commanding officers and others in authority

''All commanding officers and others in authority in the Department of Defense are required—

''(1) to show in themselves a good example of virtue, honor, patriotism, and subordination;

''(2) to be vigilant in inspecting the conduct of all persons who are placed under their command or charge;

''(3) to guard against and to suppress all dissolute and immoral practices and to correct, according to applicable laws and regulations, all persons who are guilty of them; and

''(4) to take all necessary and proper measures, under the laws, regulations, and customs applicable to the armed forces, to promote and safeguard the morale, the physical well-being, and the general welfare of all under their command or charge.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''992. Requirement of exemplary conduct: commanding officers and others in authority.''.

(b) CONFORMING REPEALS.—Title 10, United States Code, is further amended as follows:

(1) Section 3583, 5947, and 8583 are repealed.

(2)(A) The table of sections at the beginning of chapter 345 is amended by striking the item relating to section 3583.

(B) The table of sections at the beginning of chapter 551 is amended by striking the item relating to section 5947.

(C) The table of sections at the beginning of chapter 845 is amended by striking the item relating to section 8583.

SEC. 562. RECOGNITION OF MILITARY FAMILIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The families of both active and reserve component military personnel, through their sacrifices and their dedication to the Nation and its values, contribute immeasurably to the readiness of the Nation's Armed Forces.

(2) Without the continued support of military families, the Nation's ability to sustain a high quality all-volunteer military force would be undermined.

(3) In these perilous and challenging times, with hundreds of thousands of active and reserve military personnel deployed overseas in places of combat and imminent danger, military families are making extraordinary sacrifices and will be required to do so for the foreseeable future.

(4) Beginning in 1997, military family service and support centers have received materials from private, non-profit organizational sources which are designed to encourage and assist those centers in conducting activities to celebrate the American military family during the Thanksgiving period each November.

(b) MILITARY FAMILY RECOGNITION.— In view of the findings in subsection (a), Congress determines that it is appropriate that special measures be taken annually to recognize and honor the American military family.

(c) DEPARTMENT OF DEFENSE PROGRAMS AND ACTIVITIES.—The Secretary of Defense shall—

(1) implement and sustain programs, including appropriate ceremonies and activities, to celebrate the contributions and sacrifices of the American military family, including both families of both active and reserve component military personnel;

(2) focus the celebration of the American military family during a specific period of each year to give full and proper highlight to those families; and

(3) seek the assistance and support of appropriate civilian organizations, associations, and other entities in carrying out not only the annual celebration of the American military family, but also in sustaining longer-term efforts.

SEC. 563. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2004.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $35,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2004, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2004 of—

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term ''educational agencies assistance'' means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term ''local educational agency'' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 564. PERMANENT AUTHORITY FOR SUPPORT FOR CERTAIN CHAPLAIN-LED MILITARY FAMILY SUPPORT PROGRAMS.

(a) IN GENERAL.—(1) Chapter 88 of title 10, United States Code, is amended by inserting at the end of subchapter I the following new section:

''§ 1789. Chaplain-led programs: authorized support

''(a) AUTHORITY.—The Secretary of a military department may provide support services described in subsection (b) to support chaplain-led programs to assist members of the armed forces on active duty and their immediate family members, and members of reserve components in an active status and their immediate family members, in building and maintaining a strong family structure.

''(b) AUTHORIZED SUPPORT SERVICES.—The support services referred to in subsection (a) are costs of transportation, food, lodging, child care, supplies, fees, and training materials for members of the armed forces and their family members while participating in programs referred to in that subsection, including participation at retreats and conferences.

''(c) IMMEDIATE FAMILY MEMBERS.—In this section, the term 'immediate family members', with respect to a member of the armed forces, means—

''(1) the member's spouse; and

''(2) any child (as defined in section 1072(6) of this title) of the member who is described in subparagraph (D) of section 1072(2) of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1788 the following new item:

''1789. Chaplain-led programs: authorized support.''.

(b) EFFECTIVE DATE.—Section 1789 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2003.

SEC. 565. DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS JOINT EXECUTIVE COMMITTEE.

(a) ESTABLISHMENT OF JOINT COMMITTEE.—(1) Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 320. Department of Veterans Affairs-Department of Defense Joint Executive Committee

''(a) JOINT EXECUTIVE COMMITTEE.—(1) There is established an interagency committee to be known as the Department of Veterans Affairs-Department of Defense Joint Executive Committee (hereinafter in this section referred to as the 'Committee').

''(2) The Committee is composed of—

''(A) the Deputy Secretary of Veterans Affairs and such other officers and employees of the Department of Veterans Affairs as the Secretary of Veterans Affairs may designate; and

''(B) the Under Secretary of Defense for Personnel and Readiness and such other officers and employees of the Department of Defense as the Secretary of Defense may designate.

''(b) ADMINISTRATIVE MATTERS.—(1) The Deputy Secretary of Veterans Affairs and the Under Secretary of Defense shall determine the size and structure of the Committee, as well as the administrative and procedural guidelines for the operation of the Committee.

''(2) The two Departments shall supply appropriate staff and resources to provide administrative support and services. Support for such purposes shall be provided at a level sufficient for the efficient operation of the Committee, including a subordinate Health Executive Committee, a subordinate Benefits Executive Committee, and such other committees or working groups as considered necessary by the Deputy Secretary and Under Secretary.

''(c) RECOMMENDATIONS.—(1) The Committee shall recommend to the Secretaries strategic direction for the joint coordination and sharing efforts between and within the two Departments under section 8111 of this title and shall oversee implementation of those efforts.

''(2) The Committee shall submit to the two Secretaries and to Congress an annual report containing such recommendations as the Committee considers appropriate.

''(d) FUNCTIONS.—In order to enable the Committee to make recommendations in its annual report under subsection (c)(2), the Committee shall do the following:

''(1) Review existing policies, procedures, and practices relating to the coordination and sharing of resources between the two Departments.

''(2) Identify changes in policies, procedures, and practices that, in the judgment of the Committee, would promote mutually beneficial coordination, use, or exchange of use of services and resources of the two Departments, with the goal of improving the quality, efficiency and effectiveness of the delivery of benefits and services to veterans, service members, military retirees and their families through an enhanced Department of Veterans Affairs and Department of Defense partnership.

''(3) Identify and assess further opportunities for the coordination and collaboration between the Departments that, in the judgment of the Committee, would not adversely affect the range of services, the quality of care, or the established priorities for benefits provided by either Department.

''(4) Review the plans of both Departments for the acquisition of additional resources, especially new facilities and major equipment and technology, in order to assess the potential effect of such plans on further opportunities for the coordination and sharing of resources.

''(5) Review the implementation of activities designed to promote the coordination and sharing of resources between the Departments.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''320. Department of Veterans Affairs-Department of Defense Joint Executive Committee.''.

(b) CONFORMING AMENDMENTS.—(1) Subsection (c) of section 8111 of such title is repealed.

(2) Such section is further amended—

(A) in subsection (b)(2), by striking ''subsection (c)'' and inserting ''section 320 of this title'';

(B) in subsection (d)(1), by striking ''Committee established in subsection (c)'' and inserting ''Department of Veterans Affairs-Department of Defense Joint Executive Committee'';

(C) in subsection (e)(1), by striking ''Committee under subsection (c)(2)'' and inserting ''Department of Veterans Affairs-Department of Defense Joint Executive Committee with respect to health care resources''; and

(D) in subsection (f)(2), by striking subparagraphs (B) and (C) and inserting the following:

''(B) The assessment of further opportunities identified by the Department of Veterans Affairs-Department of Defense Joint Executive Committee under subsection (d)(3) of section 320 of this title for the sharing of health-care resources between the two Departments.

''(C) Any recommendation made by that committee under subsection (c)(2) of that section during that fiscal year.''.

(c) TECHNICAL AMENDMENTS.—Subsection (f) of such section is further amended by inserting ''(Public Law 107–314)'' in paragraphs (3), (4)(A), (4)(B), and (5) after ''for Fiscal Year 2003''.

(d) EFFECTIVE DATE.—(1) If this Act is enacted before October 1, 2003—

(A) section 320 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2003; and

(B) the amendments made by subsections (b) and (c) shall take effect on October 1, 2003, immediately after the amendment made by section 721(a)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 2589).

(2) If this Act is enacted on or after October 1, 2003, the amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 566. LIMITATION ON AVIATION FORCE STRUCTURE CHANGES IN THE DEPARTMENT OF THE NAVY.

(a) LIMITATION.—The Secretary of the Navy shall ensure that no reductions are made in the active and reserve force structure of the Navy and Marine Corps for fixed- and rotary-wing aircraft until 90 days have elapsed after the date as of which both of the reports required by subsections (b) and (c) have been received by the committees named in those subsections.

(b) NAVAL AVIATION FORCE STRUCTURE PLAN.—The Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a detailed report on the changes to the active and reserve aviation force structure in the Department of the Navy that are proposed for fiscal years 2004 through 2009. The report shall include the following:

(1) The numbers of aircraft and helicopter force structure planned for retirement.

(2) The amounts of planned budget authority to be saved, shown by year and by appropriation, compared to the May 1, 2003, force structure.

(3) An assessment by the Chief of Naval Operations comparing the future force structure plan with capabilities of the Department of the Navy's aviation force structure on May 1, 2003.

(4) A risk assessment of the planned force structure to carry out the National Security Strategy of the United States, dated September 2002.

(5) A risk assessment of the planned force based on the assumptions applied in the September 30, 2001, Quadrennial Defense Review Report.

(c) ACTIVE AND RESERVE COMPONENT INTEGRATION PLAN.—The Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a concept of operations for increasing the integration and use of Naval Reserve surface, aviation, and other units and personnel with active component forces in carrying out operational missions across the peacetime and wartime spectrum of naval operations during the period of 2004 through 2009.

SEC. 567. IMPACT AID ELIGIBILITY FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES AFFECTED BY PRIVITIZATION OF MILITARY HOUSING.

Section 8003(b)(2)(H) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)(H)) is amended by striking clauses (i) and (ii) and inserting the following:

''(i) ELIGIBILITY.—For any fiscal year beginning with fiscal 2003, a heavily impacted local educational agency that received a basic support payment under paragraph (b)(2) for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B), (C), (D), or (E), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be for the period during which the housing units are undergoing such conversion.

''(ii) AMOUNT OF PAYMENT.—The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E), as the case may be, shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year and under the same provisions of subparagraph (D) or (E) under which the agency was paid during the prior fiscal year.''.

SEC. 568. INVESTIGATION INTO THE 1991 DEATH OF MARINE CORPS COLONEL JAMES E. SABOW.

(a) INVESTIGATION REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall commence a new investigation into the death of Colonel James S. Sabow, United States Marine Corps, who died on January 22, 1991, at the Marine Corps Air Station, El Toro, California.

(b) FOCUS OF INVESTIGATION.—The principal focus of the investigation under subsection (a) shall be to determine the cause of Colonel Sabow's death, given the medical and forensic factors associated with that death.

(c) REVIEW BY OUTSIDE EXPERTS.—The Secretary of Defense shall provide that the evidence concerning the cause of Colonel Sabow's death and the medical and forensic factors associated with his death shall be reviewed by medical and forensic experts outside the Department of Defense.

(d) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written report on the findings of the investigation under subsection (a). The Secretary shall include in the report (1) the Secretary's conclusions as a result of the investigation, including the Secretary's conclusions regarding the cause of death of Colonel Sabow, and (2) the conclusions of the experts reviewing the matter under subsection (c).

Subtitle H—Domestic Violence

SEC. 571. TRAVEL AND TRANSPORTATION FOR DEPENDENTS RELOCATING FOR REASONS OF PERSONAL SAFETY.

Section 406(h) of title 37, United States Code, is amended by adding at the end the following new paragraph:

''(4)(A) The Secretary concerned shall provide to the dependents of a member the travel and transportation allowances described in paragraphs (1) and (3) in a case in which—

''(i) a commander has substantiated that the member has committed dependent abuse, as defined in section 1059(c) of title 10;

''(ii) a safety plan and counseling have been provided;

''(iii) there has been a determination that the victim's safety is at stake and that relocation is the best course of action; and

''(iv) the abused dependent, or parent of the abused dependent if the abused dependent is a child, requests relocation,

''(B) In the case of allowances paid under subparagraph (A), any monetary allowances shall accrue to the dependents in lieu of the member and may be paid to the dependents.

''(C) Shipment of the dependent's baggage and household effects, and of any motor vehicle, may not be provided until there is a property division established by written agreement with the member or by order of a court of competent jurisdiction .''.

SEC. 572. COMMENCEMENT AND DURATION OF PAYMENT OF TRANSITIONAL COMPENSATION.

(a) COMMENCEMENT.—Paragraph (1)(A) of section 1059(e) of title 10, United States Code, is amended by striking ''shall commence'' and all that follows and inserting ''shall commence—

''(i) as of the date the court martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; or

''(ii) if there is a pretrial agreement that includes disapproval or suspension of the dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances, as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes an unsuspended dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances;''.

(b) DURATION.—Paragraph (2) of such section is amended by striking '', except that'' and all that follows through ''12 months''.

(c) TERMINATION.—Paragraph (3)(A) of such section is amended by striking ''punishment applicable to the member under the sentence is remitted, set aside, or mitigated'' and inserting ''conviction is disapproved by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) or set aside, or each such punishment applicable to the member under the sentence is disapproved by the person acting under section 860(c) of this title, remitted, set aside, suspended, or mitigated''.

SEC. 573. FLEXIBILITY IN ELIGIBILITY FOR TRANSITIONAL COMPENSATION.

(a) AUTHORITY.—Section 1059 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(m) ADDITIONAL ELIGIBILITY.—The Secretary concerned, under regulations prescribed under subsection (k), may authorize eligibility for benefits under this section to dependents of a member or former member of the armed forces not covered by subsection (b) if the Secretary concerned determines that there are extenuating circumstances such that granting benefits under this section is consistent with the intent of this section.''.

(b) EFFECTIVE DATE.—The authority under subsection (m) of section 1059 of title 10, United States Code, as added by subsection (a), may only be exercised with respect to eligibility for benefits under such section by reason of conduct on or after the date of the enactment of this Act.

SEC. 574. TYPES OF ADMINISTRATIVE SEPARATIONS TRIGGERING COVERAGE.

Section 1059(b)(2) of title 10, United States Code, is amended by inserting '', voluntarily or involuntarily,'' after ''administratively separated''.

SEC. 575. ON-GOING REVIEW GROUP.

Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall convene a working group of not less than 12 members, composed in the same manner as the Defense Task Force on Domestic Violence established pursuant to section 591 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65). The purpose of the working group shall be to review and assess the progress of the Department of Defense in implementation of the recommendations of the Defense Task Force on Domestic Violence. In reviewing the status of the Department's efforts, the group should specifically focus on the Department's efforts to ensure confidentiality for victims and accountability and education of commanding officers and chaplains.

SEC. 576. RESOURCES FOR DEPARTMENT OF DEFENSE IMPLEMENTATION ORGANIZATION.

The Secretary of Defense shall ensure that necessary resources, including personnel, facilities, and other administrative support, are provided to the organization within the Office of the Secretary of Defense with direct responsibility for oversight of implementation by the military departments of recommendations of the Task Force in order for that organization to carry out its duties and responsibilities.

SEC. 577. FATALITY REVIEWS.

(a) REVIEW OF FATALITIES.—The Secretary of Defense shall conduct a multidisciplinary, impartial review (referred to as a ''fatality review'') in the case of each fatality known or

suspected to have resulted from domestic violence or child abuse against—

(1) a member of the Armed Forces;

(2) a current or former dependent of a member of the Armed Forces; or

(3) a current or former intimate partner who has a child in common or has shared a common domicile with a member of the Armed Forces.

(b) MATTERS TO BE INCLUDED.—The report of a fatality review under subsection (a) shall, at a minimum, include the following:

(1) An executive summary.

(2) Data setting forth victim demographics, injuries, autopsy findings, homicide or suicide methods, weapons, police information, assailant demographics, and household and family information.

(3) Legal disposition.

(4) System intervention and failures within the Department of Defense.

(5) A discussion of significant findings.

(6) Recommendations for systemic changes within the Department of Defense.

SEC. 578. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Secretary of Defense should adopt the strategic plan proposed by the Defense Task Force on Domestic Violence in its Third Year Report, as required by section 591(a) of the Department of Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65); and

(2) the Secretary of each military department should establish and support a Victim Advocate Protocol and provide for nondisclosure to ensure confidentiality for victims who come forward to receive advocacy, support, information, and resources, as recommended by the Defense Task Force on Domestic Violence.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2004.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2004 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY FOR MEMBERS OF ARMED FORCES.—Effective on January 1, 2004, the rates of monthly basic pay for members of the Armed Forces within each pay grade are as follows:

COMMISSIONED OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	7,751.10	8,004.90	8,173.20	8,220.60	8,430.30
O–7	6,440.70	6,739.80	6,878.40	6,988.50	7,187.40
O–6	4,773.60	5,244.30	5,588.40	5,588.40	5,609.70
O–5	3,979.50	4,482.90	4,793.40	4,851.60	5,044.80
O–4	3,433.50	3,974.70	4,239.90	4,299.00	4,545.30
O–3[3]	3,018.90	3,422.40	3,693.90	4,027.20	4,220.10
O–2[3]	2,595.60	2,956.50	3,405.00	3,519.90	3,592.50
O–1[3]	2,253.60	2,345.10	2,834.70	2,834.70	2,834.70
	Over 8	Over 10	Over 12	Over 14	Over 16
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	8,781.90	8,863.50	9,197.10	9,292.80	9,579.90
O–7	7,384.20	7,611.90	7,839.00	8,066.70	8,781.90
O–6	5,850.00	5,882.10	5,882.10	6,216.30	6,807.30
O–5	5,161.20	5,415.90	5,602.80	5,844.00	6,213.60
O–4	4,809.30	5,137.80	5,394.00	5,571.60	5,673.60
O–3[3]	4,431.60	4,568.70	4,794.30	4,911.30	4,911.30
O–2[3]	3,592.50	3,592.50	3,592.50	3,592.50	3,592.50
O–1[3]	2,834.70	2,834.70	2,834.70	2,834.70	2,834.70
	Over 18	Over 20	Over 22	Over 24	Over 26
O–10[2]	$0.00	$12,524.70	$12,586.20	$12,847.80	$13,303.80
O–9	0.00	10,954.50	11,112.30	11,340.30	11,738.40
O–8	9,995.70	10,379.10	10,635.30	10,635.30	10,635.30
O–7	9,386.10	9,386.10	9,386.10	9,386.10	9,433.50
O–6	7,154.10	7,500.90	7,698.30	7,897.80	8,285.40
O–5	6,389.70	6,563.40	6,760.80	6,760.80	6,760.80
O–4	5,733.00	5,733.00	5,733.00	5,733.00	5,733.00
O–3[3]	4,911.30	4,911.30	4,911.30	4,911.30	4,911.30
O–2[3]	3,592.50	3,592.50	3,592.50	3,592.50	3,592.50
O–1[3]	2,834.70	2,834.70	2,834.70	2,834.70	2,834.70

[1] *Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades O–7 through O–10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.*

[2] *Subject to the preceding footnote, the rate of basic pay for an officer in this grade while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, is $14,679.30, regardless of cumulative years of service computed under section 205 of title 37, United States Code.*

[3] *This table does not apply to commissioned officers in pay grade O–1, O–2, or O–3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.*

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–3E	$0.00	$0.00	$0.00	$4,027.20	$4,220.10
O–2E	0.00	0.00	0.00	3,537.00	3,609.90
O–1E	0.00	0.00	0.00	2,848.50	3,042.30
	Over 8	Over 10	Over 12	Over 14	Over 16
O–3E	$4,431.60	$4,568.70	$4,794.30	$4,984.20	$5,092.80
O–2E	3,724.80	3,918.60	4,068.60	4,180.20	4,180.20
O–1E	3,154.50	3,269.40	3,382.20	3,537.00	3,537.00
	Over 18	Over 20	Over 22	Over 24	Over 26

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–3E	$5,241.30	$5,241.30	$5,241.30	$5,241.30	$5,241.30
O–2E	4,180.20	4,180.20	4,180.20	4,180.20	4,180.20
O–1E	3,537.00	3,537.00	3,537.00	3,537.00	3,537.00

WARRANT OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,119.40	3,355.80	3,452.40	3,547.20	3,710.40
W–3	2,848.80	2,967.90	3,089.40	3,129.30	3,257.10
W–2	2,505.90	2,649.00	2,774.10	2,865.30	2,943.30
W–1	2,212.80	2,394.00	2,515.20	2,593.50	2,802.30
	Over 8	Over 10	Over 12	Over 14	Over 16
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,871.50	4,035.00	4,194.30	4,359.00	4,617.30
W–3	3,403.20	3,595.80	3,786.30	3,988.80	4,140.60
W–2	3,157.80	3,321.60	3,443.40	3,562.20	3,643.80
W–1	2,928.30	3,039.90	3,164.70	3,247.20	3,321.90
	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	$0.00	$5,360.70	$5,544.30	$5,728.80	$5,914.20
W–4	4,782.60	4,944.30	5,112.00	5,277.00	5,445.90
W–3	4,291.80	4,356.90	4,424.10	4,570.20	4,716.30
W–2	3,712.50	3,843.00	3,972.60	4,103.70	4,103.70
W–1	3,443.70	3,535.80	3,535.80	3,535.80	3,535.80

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.

ENLISTED MEMBERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–9[2]	$0.00	$0.00	$0.00	$0.00	$0.00
E–8	0.00	0.00	0.00	0.00	0.00
E–7	2,145.00	2,341.20	2,430.60	2,549.70	2,642.10
E–6	1,855.50	2,041.20	2,131.20	2,218.80	2,310.00
E–5	1,700.10	1,813.50	1,901.10	1,991.10	2,130.60
E–4	1,558.20	1,638.30	1,726.80	1,814.10	1,891.50
E–3	1,407.00	1,495.50	1,585.50	1,585.50	1,585.50
E–2	1,331.40	1,331.40	1,331.40	1,331.40	1,331.40
E–1[3]	1,173.90	1,173.90	1,173.90	1,173.90	1,173.90
	Over 8	Over 10	Over 12	Over 14	Over 16
E–9[2]	$0.00	$3,769.20	$3,854.70	$3,962.40	$4,089.30
E–8	3,085.50	3,222.00	3,306.30	3,407.70	3,517.50
E–7	2,801.40	2,891.10	2,980.20	3,139.80	3,219.60
E–6	2,516.10	2,596.20	2,685.30	2,763.30	2,790.90
E–5	2,250.90	2,339.70	2,367.90	2,367.90	2,367.90
E–4	1,891.50	1,891.50	1,891.50	1,891.50	1,891.50
E–3	1,585.50	1,585.50	1,585.50	1,585.50	1,585.50
E–2	1,331.40	1,331.40	1,331.40	1,331.40	1,331.40
E–1[3]	1,173.90	1,173.90	1,173.90	1,173.90	1,173.90
	Over 18	Over 20	Over 22	Over 24	Over 26
E–9[2]	$4,216.50	$4,421.10	$4,594.20	$4,776.60	$5,054.70
E–8	3,715.50	3,815.70	3,986.40	4,081.20	4,314.30
E–7	3,295.50	3,341.70	3,498.00	3,599.10	3,855.00
E–6	2,809.80	2,809.80	2,809.80	2,809.80	2,809.80
E–5	2,367.90	2,367.90	2,367.90	2,367.90	2,367.90
E–4	1,891.50	1,891.50	1,891.50	1,891.50	1,891.50
E–3	1,585.50	1,585.50	1,585.50	1,585.50	1,585.50
E–2	1,331.40	1,331.40	1,331.40	1,331.40	1,331.40
E–1[3]	1,173.90	1,173.90	1,173.90	1,173.90	1,173.90

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, is $6,090.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] In the case of members in pay grade E–1 who have served less than 4 months on active duty, the rate of basic pay is $1,086.00.

(c) INCREASE IN BASIC PAY FOR OTHER MEMBERS OF UNIFORMED SERVICES.—Effective on January 1, 2004, the rates of monthly basic pay for members of the National Oceanic and Atmospheric Administration and the Public Health Service are increased by 2 percent.

(d) DEFINITIONS.—In this section, the terms ''armed forces'' and ''uniformed services'' have the meanings given such terms in section 101 of title 37, United States Code.

SEC. 602. COMPUTATION OF BASIC PAY RATE FOR COMMISSIONED OFFICERS WITH PRIOR ENLISTED OR WARRANT OFFICER SERVICE.

Section 203(d)(2) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking ''enlisted member,'' and all that follows through the period and inserting ''enlisted member.''; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) Service as a warrant officer, as an enlisted member, or as a warrant officer and an enlisted member, for which at least 1,460 points have been credited to the officer for the purposes of section 12732(a)(2) of title 10.''.

SEC. 603. SPECIAL SUBSISTENCE ALLOWANCE AUTHORITIES FOR MEMBERS ASSIGNED TO HIGH-COST DUTY LOCATION OR UNDER OTHER UNIQUE AND UNUSUAL CIRCUMSTANCES.

(a) IN GENERAL.—Section 402 of title 37, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

''(f) SPECIAL RULE FOR HIGH-COST DUTY LOCATIONS AND OTHER UNIQUE AND UNUSUAL CIRCUMSTANCES.—The Secretary of Defense may authorize a member of the armed forces who is assigned to duty in a high-cost duty location or under other unique and unusual circumstances, but is not entitled to the meals portion of the per diem in connection with that duty, to receive any or all of the following:

''(1) Meals at no cost to the member, regardless of the entitlement of the member to a basic allowance for subsistence under subsection (a).

''(2) A basic allowance for subsistence at the standard rate, regardless of the entitlement of the member for all meals or select meals during the duty day.

''(3) A supplemental subsistence allowance at a rate higher than the basic allowance for subsistence rates in effect under this section, regardless of the entitlement of the member for all meals or select meals during the duty day.''.

(b) RETROACTIVE AND PROSPECTIVE APPLICATION.—Subsection (f) of section 402 of title 37, United States Code, as added by subsection (a), shall apply with respect to members of the Armed Forces assigned to duty in a high-cost duty location or under other unique and unusual circumstances, as determined pursuant to regulations prescribed pursuant to subsection (c), after September 11, 2001.

(c) REGULATIONS; TIME LIMITS.—Final regulations to carry out subsection (f) of section 402 of title 37, United States Code, as added by subsection (a), shall be prescribed not later than 180 days after the date of the enactment of this Act. The regulations shall provide a method by which a member of the Armed Forces covered by such subsection (f) may obtain reimbursement for subsistence expenses incurred by the member during the period beginning on September 11, 2001, and ending on the date the regulations take effect.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(d) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(f) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking ''January 1, 2004'' and inserting ''January 1, 2005''.

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(c) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(d) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(e) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

SEC. 615. COMPUTATION OF HAZARDOUS DUTY INCENTIVE PAY FOR DEMOLITION DUTY AND PARACHUTE JUMPING BY MEMBERS OF RESERVE COMPONENTS ENTITLED TO COMPENSATION UNDER SECTION 206 OF TITLE 37.

(a) IN GENERAL.—Section 301(f) of title 37, United States Code, is amended by adding at the end the following new paragraph:

''(3) Notwithstanding paragraphs (1) or (2), if a member described in paragraph (1) performs the duty described in clauses (3) or (4) of subsection (a) in any month, the member shall be entitled for that month to the full amount specified in the first sentence of subsection (c)(1), in the case of the duty described in clause (4) of subsection (a) or parachute jumping involving the use of a static line, or the full amount specified in the second sentence of subsection (c)(1), in the case of parachute jumping in military free fall operations.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2003.

SEC. 616. AVAILABILITY OF HOSTILE FIRE AND IMMINENT DANGER PAY FOR RESERVE COMPONENT MEMBERS ON INACTIVE DUTY.

(a) EXPANSION AND CLARIFICATION OF CURRENT LAW.—Section 310 of title 37, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking subsection (a) and inserting the following new subsections:

''(a) ELIGIBILITY AND SPECIAL PAY AMOUNT.—Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of $150 for any month in which—

''(1) the member was entitled to basic pay or compensation under section 204 or 206 of this title; and

''(2) the member—

''(A) was subject to hostile fire or explosion of hostile mines;

''(B) was on duty in an area in which the member was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period the member was on duty in the area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines;

''(C) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; or

''(D) was on duty in a foreign area in which the member was subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions.

''(b) CONTINUATION DURING HOSPITALIZATION.—A member covered by subsection (a)(2)(C) who is hospitalized for the treatment of the injury or wound may be paid special pay under this section for not more than three additional months during which the member is so hospitalized.''.

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (c), as redesignated by subsection (a)(1), by inserting ''LIMITATIONS AND ADMINISTRATION.—'' before ''(1)''; and

(2) in subsection (d), as redesignated by subsection (a)(1), by inserting ''DETERMINATIONS OF FACT.—'' before ''Any''.

SEC. 617. EXPANSION OF OVERSEAS TOUR EXTENSION INCENTIVE PROGRAM TO OFFICERS.

(a) SPECIAL PAY OR BONUS FOR EXTENDING OVERSEAS TOUR OF DUTY.—(1) Subsections (a) and (b) of section 314 of title 37, United States Code, are amended by striking ''an enlisted member'' and inserting ''a member''.

(2)(A) The heading of such section is amended to read as follows:

''§314. Special pay or bonus: qualified members extending duty at designated locations overseas''.

(B) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

''314. Special pay or bonus: qualified members extending duty at designated locations overseas.''.

(b) REST AND RECUPERATIVE ABSENCE IN LIEU OF PAY OR BONUS.—(1) Subsection (a) of section

705 of title 10, United States Code, is amended by striking ''an enlisted member'' and inserting ''a member''.

(2)(A) The heading of such section is amended to read as follows:

''§ 705. Rest and recuperation absence: qualified members extending duty at designated locations overseas''.

(B) The item relating to such section in the table of sections at the beginning of chapter 40 of such title is amended to read as follows:

''705. Rest and recuperative absence for qualified members extending duty at designated locations overseas.''.

SEC. 618. ELIGIBILITY OF APPOINTED WARRANT OFFICERS FOR ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.

Section 324 of title 37, United States Code, is amended in subsections (a) and (f)(1) by inserting ''or an appointment'' after ''commission''.

SEC. 619. INCENTIVE PAY FOR DUTY ON GROUND IN ANTARCTICA OR ON ARCTIC ICEPACK.

(a) IN GENERAL.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301e the following new section:

''§ 301f. Incentive pay: duty on ground in Antarctica or on Arctic icepack

''(a) AVAILABILITY OF INCENTIVE PAY.—A member of the uniformed services who performs duty at a location described in subsection (b) is entitled to special pay under this section at a rate of $5 for each day of that duty.

''(b) COVERED LOCATIONS.—Subsection (a) applies with respect to duty performed on the ground in Antarctica or on the Arctic icepack.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 301e the following new item:

''301f. Incentive pay: duty on ground in Antarctica or on Arctic icepack.''.

(b) EFFECTIVE DATE.—Section 301f of title 37, United States Code, as added by subsection (a), shall take effect on October 1, 2003.

SEC. 620. SPECIAL PAY FOR SERVICE AS MEMBER OF WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAM.

(a) IN GENERAL.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 305a the following new section:

''§ 305b. Special pay: service as member of Weapons of Mass Destruction Civil Support Team

''(a) AVAILABILITY OF SPECIAL PAY.—The Secretary of a military department may pay special pay under this section to a member of the armed forces under the jurisdiction of that Secretary who is entitled to basic pay under section 204 and is assigned by orders to duty as a member of a Weapons of Mass Destruction Civil Support Team.

''(b) MONTHLY RATE.—Special pay payable under subsection (a) shall be paid at a rate equal to $150 a month.

''(c) ELIGIBILITY OF RESERVE COMPONENT MEMBERS WHEN PERFORMING INACTIVE DUTY TRAINING.—Under regulations prescribed by the Secretary concerned and to the extent provided for in appropriation Acts, when a member of a reserve component of the armed forces who is entitled to compensation under section 206 of this title performs duty under orders as a member of a Weapons of Mass Destruction Civil Support Team, the member may be paid an increase in compensation equal to 1/30 of the monthly special pay specified in subsection (b) for each day on which the member performs such duty.

''(d) DEFINITION.—In this section, the term 'Weapons of Mass Destruction Civil Support Team' means a team of members of the reserve components of the armed forces that is established under section 12310(c) of title 10 in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 305a the following new item:

''305b. Special pay: service as member of Weapons of Mass Destruction Civil Support Team.''.

(b) EFFECTIVE DATE.—Section 305b of title 37, United States Code, as added by subsection (a), shall take effect on October 1, 2003.

SEC. 621. INCENTIVE BONUS FOR AGREEMENT TO SERVE IN CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTY.

(a) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

''§ 326. Incentive bonus: lateral conversion bonus for service in critically short military occupational speciality

''(a) INCENTIVE BONUS AUTHORIZED.—The Secretary concerned may pay a bonus under this section to a member of the armed forces who executes a written agreement to convert to, and serve for a period of not less than two years in, a critically short military occupational specialty.

''(b) ELIGIBLE MEMBERS.—A bonus may only be paid under this section only to a member who—

''(1) is entitled to basic pay; and

''(2) is serving in pay grade E–6 (with less than 10 years of service computed under section 205 of this title) or pay grade E–5 or below (regardless of years of service) at the time the agreement under subsection (a) is executed.

''(c) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus under this section may not exceed $4,000.

''(2) A bonus payable under this section shall be disbursed in one lump sum payment when the member's conversion to the critically short military occupational specialty is approved by the personnel chief of the member's armed force.

''(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

''(e) REPAYMENT OF BONUS.—(1) A member who receives a bonus under this section and who, voluntarily or because of misconduct, fails to serve in the critically short military occupational specialty for the period specified in the agreement shall refund to the United States an amount that bears the same ratio to the bonus amount paid to the member as the unserved part of such period bears to the total period agreed to be served.

''(2) An obligation to reimburse the United States imposed under paragraph (1) is, for all purposes, a debt owed to the United States.

''(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of the agreement for which a bonus was paid under this section shall not discharge the person signing such agreement from the debt arising under paragraph (1).

''(4) Under regulations prescribed pursuant to subsection (f), the Secretary concerned may waive, in whole in part, a refund required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

''(f) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

''(g) DEFINITION.—In this section, the term 'critically short military occupational specialty' means a military occupational specialty, military rating, or other military speciality designated by the Secretary concerned as undermanned for purposes of this section.

''(h) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2004.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''326. Incentive bonus: lateral conversion bonus for service in critically short military occupational speciality.''.

SEC. 622. INCREASE IN RATE FOR IMMINENT DANGER PAY AND FAMILY SEPARATION ALLOWANCE RELATED TO SERVICE IN OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.

(a) SPECIAL PAYMENT RATES.—Effective October 1, 2003, in the case of a member of the uniformed services who serves, for any period of time during a month, in a combat zone designated for Operation Iraqi Freedom or Operation Enduring Freedom, the monthly rate for imminent danger pay under section 310 of title 37, United States Code, shall be deemed to be $225 and the monthly rate for the family separation allowance under section 427 of such title shall be deemed to be $250.

(b) DURATION.—The special rates for imminent danger pay and the family separation allowance in effect under subsection (a) for an operation referred to in such subsection expire on the date the President terminates the operation.

Subtitle C—Travel and Transportation Allowances

SEC. 631. SHIPMENT OF PRIVATELY OWNED MOTOR VEHICLE WITHIN CONTINENTAL UNITED STATES.

(a) AUTHORITY TO PROCURE CONTRACT FOR TRANSPORTATION OF MOTOR VEHICLE.—Section 2634 of title 10, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

''(h) In the case of a change of permanent station described in subparagraph (A) or (B) of subsection (i)(1), the Secretary concerned may authorize the member to arrange for the shipment of the motor vehicle in lieu of transportation at the expense of the United States under this section. The Secretary concerned may pay the member a monetary allowance in lieu of transportation, as established under section 404(d)(1) of title 37, and the member shall be responsible for any transportation costs in excess of such allowance.''.

(b) ALLOWANCE FOR SELF-PROCUREMENT OF TRANSPORTATION OF MOTOR VEHICLE.—Section 406(b)(1)(B) of title 37, United States Code, is amended by adding at the end the following new sentence: ''In the case of the transportation of a motor vehicle arranged by the member under section 2634(h) of title 10, the Secretary concerned may pay the member, upon proof of shipment, a monetary allowance in lieu of transportation, as established under section 404(d)(1) of this title.''.

SEC. 632. PAYMENT OR REIMBURSEMENT OF STUDENT BAGGAGE STORAGE COSTS FOR DEPENDENT CHILDREN OF MEMBERS STATIONED OVERSEAS.

Section 430(b)(2) of title 37, United States Code, is amended in the first sentence by inserting before the period at the end the following: ''or during a different period in the same fiscal year selected by the member''.

SEC. 633. REIMBURSEMENT FOR LODGING EXPENSES OF CERTAIN RESERVE COMPONENT AND RETIRED MEMBERS DURING AUTHORIZED LEAVE FROM TEMPORARY DUTY LOCATION.

(a) REIMBURSEMENT AUTHORIZED.—The Secretary concerned (as defined in section 101 of title 37, United States Code) may reimburse a member of the Armed Forces described in subsection (b) for lodging expenses incurred by the member at the member's duty location while the member is in an authorized leave status.

(b) COVERED MEMBERS.—Subsection (a) applies with respect to a member of a reserve component who is called or ordered to active duty for a period of more than 30 days, or a retired member who is ordered to active duty under section 688(a) of title 10, United States Code, if the member—

(1) immediately before taking authorized leave was performing duty at a location away from the member's home;

(2) was receiving a per diem allowance under section 404(a)(4) of title 37, United States Code, to cover lodging and subsistence expenses incurred at the duty location because quarters of the United States were not available for assignment to the member at that location; and

(3) immediately after completing the authorized leave, returned to the duty location.

(c) AMOUNT OF REIMBURSEMENT.—The amount of the reimbursement provided to a member under subsection (a) may not exceed the lesser of—

(1) the actual daily cost of lodging incurred by the member at the duty location while the member was in an authorized leave status; and

(2) the lodging portion of the applicable daily per diem rate for that duty location.

(d) RETROACTIVE APPLICATION.—This section applies with respect to members of the reserve components described in subsection (b) who, since September 11, 2001, were or are called or ordered to active duty for a period of more than 30 days and retired members described in such subsection who, since that date, were or are ordered to active duty under section 688(a) of title 10, United States Code.

Subtitle D—Retired Pay and Survivors Benefits

SEC. 641. FUNDING FOR SPECIAL COMPENSATION AUTHORITIES FOR DEPARTMENT OF DEFENSE RETIREES.

(a) SOURCE OF PAYMENTS.—

(1) Section 1413(g) of title 10, United States Code, is amended—

(A) by inserting before ''Payments under'' the following new sentence: ''Payments under this section for a member of the Army, Navy, Air Force, or Marine Corps shall be paid from the Department of Defense Military Retirement Fund.''; and

(B) by inserting ''for any other member'' before ''for any fiscal year''.

(2) Section 1413a(h) of such title is amended—

(A) by inserting before ''Payments under'' the following new sentence: ''Payments under this section for a member of the Army, Navy, Air Force, or Marine Corps shall be paid from the Department of Defense Military Retirement Fund.''; and

(B) by inserting ''for any other member'' before ''for any fiscal year''.

(b) PAYMENT OF INCREASED RETIREMENT TRUST FUND COSTS DUE TO CONCURRENT RECEIPT OR ENHANCED SPECIAL DISABILITY COMPENSATION PAYMENTS.—

(1) Section 1463(a)(1) of this title is amended by inserting before the semicolon the following: ''and payments under section 1413, 1413a, or 1414 of this title paid to such members''.

(2) Section 1465(b) of such title is amended by adding at the end the following new paragraph:

''(3) At the same time that the Secretary of Defense makes the determination required by paragraph (1) for any fiscal year, the Secretary shall determine the amount of the Treasury contribution to be made to the Fund for the next fiscal year under section 1466(b)(2)(D) of this title. That amount shall be determined in the same manner as the determination under paragraph (1) of the total amount of Department of Defense contributions to be made to the Fund during that fiscal year under section 1466(a) of this title, except that for purposes of this paragraph the Secretary, in making the calculations required by subparagraphs (A) and (B) of that paragraph, shall use the single level percentages determined under subsection (c)(4), rather than those determined under subsection (c)(1).''.

(3) Section 1465(c) of such title is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting before the semicolon at the end the following: '', to be determined without regard to section 1413, 1413a, or 1414 of this title'';

(ii) in subparagraph (B), by inserting before the period at the end the following: '', to be determined without regard to section 1413, 1413a, or 1414 of this title''; and

(iii) in the sentence following subparagraph (B), by striking ''subsection (b)'' and inserting ''subsection (b)(1)'';

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

''(4) Whenever the Secretary carries out an actuarial valuation under paragraph (1), the Secretary shall include as part of such valuation the following:

''(A) A determination of a single level percentage determined in the same manner as applies under subparagraph (A) of paragraph (1), but based only upon the provisions of section 1413, 1413a, or 1414 of this title (whichever is in effect).

''(B) A determination of a single level percentage determined in the same manner as applies under subparagraph (B) of paragraph (1), but based only upon the provisions of section 1413, 1413a, or 1414 of this title (whichever is in effect).

Such single level percentages shall be used for the purposes of subsection (b)(3).''.

(4) Section 1466(b) of such title is amended—

(A) in paragraph (1), by striking ''sections 1465(a) and 1465(c)'' and inserting ''sections 1465(a), 1465(b)(3), 1465(c)(2), and 1465(c)(3)''; and

(B) by adding at the end of paragraph (2) the following new subparagraph:

''(D) The amount for that year determined by the Secretary of Defense under section 1465(b)(3) of this title for the cost to the Fund arising from increased amounts payable from the Fund by reason of section 1413, 1413a, or 1414 of this title.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2003.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

SEC. 651. EXPANDED COMMISSARY ACCESS FOR SELECTED RESERVE MEMBERS, RESERVE RETIREES UNDER AGE 60, AND THEIR DEPENDENTS.

(a) ACCESS TO MILITARY COMMISSARIES.—Section 1065 of title 10, United States Code, is amended—

(1) in subsections (a), (b), and (c), by inserting ''commissary stores and'' after ''use'' each place it appears; and

(2) in subsection (d)—

(A) by inserting ''commissary stores and'' after ''use'' the first and third places it appears; and

(B) by inserting ''stores and'' after ''use'' the second and fourth places it appears.

(b) CONFORMING AMENDMENTS; TRANSFER OF SECTION.—Chapter 54 of such title is amended—

(1) by striking sections 1063 and 1064;

(2) in section 1063a(c)(2), by striking ''section 1065(e)'' and inserting ''section 1063(e)'';

(3) by redesignating section 1063a, as amended by paragraph (2), as section 1064;

(4) by transferring section 1065, as amended by subsection (a), so as to appear after section 1062; and

(5) by striking the heading of such section, as amended by subsection (a) and transferred by paragraph (4), and inserting the following new heading:

''§ 1063. Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60''.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1063, 1063a, 1064, and 1065 and inserting the following new items:

''1063. Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60.

''1064. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency.''.

SEC. 652. DEFENSE COMMISSARY SYSTEM AND EXCHANGE STORES SYSTEM.

(a) EXISTENCE OF SYSTEMS.—Chapter 147 of title 10, United States Code, is amended by inserting before section 2482 the following new section:

''§ 2481. Existence of defense commissary system and exchange stores system

''(a) IN GENERAL.—The Secretary of Defense shall operate a defense commissary system and an exchange stores system in the manner provided by this chapter and other provisions of law.

''(b) SEPARATE SYSTEMS.—Except as authorized by section 2490a of this title, the defense commissary system and the exchange stores system shall be operated as separate systems of the Department of Defense.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2482 the following new item:

''2481. Existence of defense commissary system and exchange stores system.''.

SEC. 653. LIMITATIONS ON PRIVATE OPERATION OF DEFENSE COMMISSARY STORE FUNCTIONS.

Section 2482(a) of title 10, United States Code, is amended—

(1) by striking the first and second sentences and inserting the following: ''(1) Under such regulations as the Secretary of Defense may approve, private persons may operate selected commissary store functions, except that such functions may not include functions relating to the procurement of products to be sold in a commissary store or functions relating to the overall management of a commissary system or the management of a commissary store.''; and

(2) by adding at the end the following new paragraph:

''(2) Any change to private operation of a commissary store function shall not take effect until the Secretary of Defense submits written notice of the proposed change to Congress and a period of 90 days of continuous session of Congress expires following the date on which notice was received, determined as provided in section 2486(d)(2) of this title.''.

SEC. 654. USE OF APPROPRIATED FUNDS TO OPERATE DEFENSE COMMISSARY SYSTEM.

(a) REQUIREMENT THAT COMMISSARY OPERATING EXPENSES BE PAID FROM APPROPRIATED FUNDS.—Section 2484 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ''may'' and inserting ''shall''; and

(2) in subsection (b), by striking ''may'' in the first sentence and inserting ''shall''.

(b) SUPPLEMENTAL FUNDS FOR COMMISSARY OPERATIONS.—Such section is further amended by adding at the end the following new subsection:

''(c) SUPPLEMENTAL FUNDS FOR COMMISSARY OPERATIONS.—Amounts appropriated to cover the expenses of operating the Defense Commissary Agency and the defense commissary system may be supplemented with additional funds from manufacturers' coupon redemption fees, handling fees for tobacco products, and other amounts received as reimbursement for other support activities provided by commissary activities.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2003.

SEC. 655. RECOVERY OF NONAPPROPRIATED FUND INSTRUMENTALITY AND COMMISSARY STORE INVESTMENTS IN REAL PROPERTY AT MILITARY INSTALLATIONS CLOSED OR REALIGNED.

(a) 1988 LAW.—Section 204(b)(7)(C)(i) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended in the second sentence by striking ''The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts)'' and inserting ''Amounts in the account shall be available to the Secretary, without appropriation and until expended,''.

(b) 1990 LAW.—Section 2906(d)(3) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking ''The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts)'' and inserting ''Amounts in the account shall be available to the Secretary, without appropriation and until expended,''.

SEC. 656. COMMISSARY SHELF-STOCKING PILOT PROGRAM.

(a) PILOT PROGRAM AUTHORITY.—Subject to subsection (c), the Secretary of Defense may conduct a pilot program under which the stocking of shelves at three defense commissary stores operated by the Defense Commissary Agency shall be the sole responsibility of Federal employees of the Agency or employees contracted by the agency.

(b) IMPLEMENTATION PLAN.—(1) The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a plan for the conduct of the pilot program. The plan shall be submitted not later than six months after the date of the enactment of this Act.

(2) The plan shall include the following:

(A) The financial structure of the pilot program and expected costs.

(B) The Secretary's request to the Office of Personnel Management to conduct the pilot program as a Federal civilian personnel demonstration project under chapter 47 of title 5, United States Code, or a plan to provide otherwise a sufficiently flexible Federal civilian workforce for the pilot program through another authority.

(C) Specification of the three sites for the conduct of the pilot program and the criteria used to select those sites.

(D) Proposed duration of the pilot program and the expected timing for providing to Congress the results of the pilot program and recommendations of the Secretary.

(E) Other observations and recommendations of the Secretary.

(c) IMPLEMENTATION.—The Secretary of Defense may not begin to conduct the pilot program until a period of 30 days has elapsed after the date of the submission of the plan for the pilot program under subsection (b).

Subtitle F—Other Matters

SEC. 661. REPEAL OF CONGRESSIONAL NOTIFICATION REQUIREMENT FOR DESIGNATION OF CRITICAL MILITARY SKILLS FOR RETENTION BONUS.

Section 323(b) of title 37, United States Code, is amended—

(1) by striking ''(1)''; and

(2) by striking paragraph (2).

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. REVISION OF DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND TO PERMIT MORE ACCURATE ACTUARIAL VALUATIONS.

Section 1115(c) of title 10, United States Code, is amended by adding at the end of paragraph (1) the following: ''In determining single level dollar amounts under subparagraphs (A) and (B) of this paragraph, the Secretary of Defense may determine a separate single level dollar amount under either or both subparagraphs for any participating uniformed service, if, in the judgment of the Secretary, such a determination would produce a more accurate and appropriate actuarial valuation for that uniformed service.''.

SEC. 702. TRANSFER OF CERTAIN MEMBERS FROM PHARMACY AND THERAPEUTICS COMMITTEE TO UNIFORM FORMULARY BENEFICIARY ADVISORY PANEL UNDER THE PHARMACY BENEFITS PROGRAM.

Section 1074g of title 10, United States Code, is amended—

(1) in subsection (b)(1) in the second sentence, by striking ''facilities,'' and all that follows through the end of the sentence and inserting ''facilities and representatives of providers in facilities of the uniformed services.''; and

(2) in subsection (c)(2)—

(A) by striking ''represent nongovernmental'' and inserting the following: ''represent—

''(A) nongovernmental'';

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(B) contractors responsible for the TRICARE retail pharmacy program;

''(C) contractors responsible for the national mail-order pharmacy program; and

''(D) TRICARE network providers.''.

SEC. 703. PERMANENT EXTENSION OF AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS FOR THE PERFORMANCE OF HEALTH CARE RESPONSIBILITIES AT LOCATIONS OTHER THAN MILITARY MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended by striking ''The Secretary may not enter into a contract under this paragraph after December 31, 2003.''.

SEC. 704. PLAN FOR PROVIDING HEALTH COVERAGE INFORMATION TO MEMBERS, FORMER MEMBERS, AND DEPENDENTS ELIGIBLE FOR CERTAIN HEALTH BENEFITS.

(a) HEALTH INFORMATION PLAN REQUIRED.—The Secretary of Defense shall develop a plan to—

(1) ensure that each household that includes one or more eligible persons is provided information concerning—

(A) the extent of health coverage provided by sections 1079 or 1086 of title 10, United States Code, for each such person;

(B) the costs, including the limits on such costs, that each such person is required to pay for such health coverage;

(C) sources of information for locating TRICARE-authorized providers in the household's locality; and

(D) methods to obtain assistance in resolving difficulties encountered with billing, payments, eligibility, locating TRICARE-authorized providers, collection actions, and such other issues as the Secretary considers appropriate;

(2) provide mechanisms to ensure that each eligible person has access to information identifying TRICARE-authorized providers in the person's locality who have agreed to accept new patients under section 1079 or 1086 of title 10, United States Code, and to ensure that such information is periodically updated;

(3) provide mechanisms to ensure that each eligible person who requests assistance in locating a TRICARE-authorized provider is provided such assistance;

(4) provide information and recruitment materials and programs aimed at attracting participation of health care providers as necessary to meet health care access requirements for all eligible persons; and

(5) provide mechanisms to allow for the periodic identification by the Department of Defense of the number and locality of eligible persons who may intend to rely on TRICARE-authorized providers for health care services.

(b) IMPLEMENTATION OF PLAN.—The Secretary of Defense shall implement the plan required by subsection (a) with respect to any contract entered into by the Department of Defense after May 31, 2003, for managed health care.

(c) DEFINITIONS.—In this section:

(1) The term ''eligible person'' means a person eligible for health benefits under section 1079 or 1086 of title 10, United States Code.

(2) The term ''TRICARE-authorized provider'' means a facility, doctor, or other provider of health care services—

(A) that meets the licensing and credentialing certification requirements in the State where the services are rendered;

(B) that meets requirements under regulations relating to TRICARE for the type of health care services rendered; and

(C) that has accepted reimbursement by the Secretary of Defense as payment for services rendered during the 12-month period preceding the date of the most recently updated provider information provided to households under the plan required by subsection (a).

(d) SUBMISSION OF PLAN.—Not later than March 31, 2004, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives the plan required by subsection (a), together with a schedule for implementation of the plan.

SEC. 705. WORKING GROUP ON MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT MILITARY INSTALLATIONS TO BE CLOSED OR REALIGNED.

Section 722 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1073 note) is amended by striking subsections (a), (b), (c), and (d) and inserting the following new subsections:

''(a) ESTABLISHMENT.—Not later than December 31, 2003, the Secretary of Defense shall establish a working group on the provision of military health care to persons who rely for health care on health care facilities located at military installations—

''(1) inside the United States that are selected for closure or realignment in the 2005 round of realignments and closures authorized by sections 2912, 2913, and 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by title XXX of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 155 Stat. 1342); or

''(2) outside the United States that are selected for closure or realignment as a result of force posture changes.

''(b) MEMBERSHIP.—The members of the working group shall include, at a minimum, the following:

''(1) The Assistant Secretary of Defense of Health Affairs, or the designee of the Assistant Secretary.

''(2) The Surgeon General of the Army, or the designee of that Surgeon General.

''(3) The Surgeon General of the Navy, or the designee of that Surgeon General.

''(4) The Surgeon General of the Air Force, or the designee of that Surgeon General.

''(5) At least one independent member from each TRICARE region, but not to exceed a total of 12 members appointed under this paragraph, whose experience in matters within the responsibility of the working group qualify that person to represent persons authorized health care under chapter 55 of title 10, United States Code.

''(c) DUTIES.—(1) In developing the selection criteria and recommendations for the 2005 round of realignments and closures required by sections 2913 and 2914 of the Defense Base Closure and Realignment Act of 1990, the Secretary of Defense shall consult with the working group.

''(2) The working group shall be available to provide assistance to the Defense Base Closure and Realignment Commission.

''(3) In the case of each military installation referred to in paragraph (1) or (2) of subsection (a) whose closure or realignment will affect the accessibility to health care services for persons entitled to such services under chapter 55 of title 10, United States Code, the working group shall provide to the Secretary of Defense a plan for the provision of the health care services to such persons.

''(d) SPECIAL CONSIDERATIONS.—In carrying out its duties under subsection (c), the working group—

''(1) shall conduct meetings with persons entitled to health care services under chapter 55 of title 10, United States Code, or representatives of such persons;

''(2) may use reliable sampling techniques;

''(3) may visit the areas where closures or realignments of military installations will adversely affect the accessibility of health care for such persons and may conduct public meetings; and

''(4) shall ensure that members of the uniformed services on active duty, members and former members of the uniformed services entitled to retired or retainer pay, and dependents and survivors of such members and retired personnel are afforded the opportunity to express their views.''.

SEC. 706. ACCELERATION OF IMPLEMENTATION OF CHIROPRACTIC HEALTH CARE FOR MEMBERS ON ACTIVE DUTY.

The Secretary of Defense shall accelerate the implementation of the plan required by section 702 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) (relating to chiropractic health care services and benefits), with a goal of completing implementation of the plan by October 1, 2005.

SEC. 707. MEDICAL AND DENTAL SCREENING FOR MEMBERS OF SELECTED RESERVE UNITS ALERTED FOR MOBILIZATION.

Section 1074a of title 10, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) The Department of Defense may provide medical and dental screening and care to members of the Selected Reserve who are assigned to a unit that has been alerted that the unit will be mobilized for active duty in support of an operational mission or contingency operation, during a national emergency, or in a time of war.

''(2) The medical and dental screening and care that may be provided under this subsection is screening and care necessary to ensure that a member meets the medical and dental standards for required deployment.

''(3) The services provided under this subsection shall be provided to a member at no cost to the member and at any time after the unit to which the member is assigned is alerted or otherwise notified that the unit will be mobilized.''.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 801. EXTENSION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note) is amended in subsection (g) by striking ''September 30, 2004'' and inserting ''September 30, 2008''.

SEC. 802. ELIMINATION OF CERTAIN SUBCONTRACT NOTIFICATION REQUIREMENTS.

Subsection (e) of section 2306 of title 10, United States Code, is amended—

(1) by striking ''(A)'' and ''(B)'' and inserting ''(i)'' and ''(ii)'', respectively;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(3) by striking ''Each'' and inserting ''(1) Except as provided in paragraph (2), each''; and

(4) by adding at the end the following new paragraph:

''(2) Paragraph (1) shall not apply to a prime contract with a contractor that maintains a purchasing system approved by the contracting officer for the contract.''.

SEC. 803. ELIMINATION OF REQUIREMENT TO FURNISH WRITTEN ASSURANCES OF TECHNICAL DATA CONFORMITY.

Section 2320(b) of title 10, United States Code, is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

SEC. 804. LIMITATION PERIOD FOR TASK AND DELIVERY ORDER CONTRACTS.

(a) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended—

(1) in section 2304a—

(A) in subsection (e)—

(i) by inserting ''(1)'' before ''A task''; and

(ii) by adding at the end the following new paragraphs:

''(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

''(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).''; and

(B) by striking subsection (f) and inserting the following:

''(f) LIMITATION ON CONTRACT PERIOD.—The base period of a task order contract or delivery order contract entered into under this section may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract. The contract may be extended for an additional 5 years (for a total contract period of not more than 10 years) through modifications, options, or otherwise.''; and

(2) in section 2304b—

(A) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—A task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services shall be subject to the requirements of this section, sections 2304a and 2304c of this title, and other applicable provisions of law.'';

(B) by striking subsections (b), (f), and (g) and redesignating subsections (c), (d), (e), (h), and (i) as subsections (b) through (f);

(C) by amending subsection (c) (as redesignated by subparagraph (B)) to read as follows:

''(c) REQUIRED CONTENT OF CONTRACT.—A task order contract described in subsection (a) shall contain the same information that is required by section 2304a(b) to be included in the solicitation of offers for that contract.''; and

(D) in subsection (d) (as redesignated by subparagraph (B))—

(i) in paragraph (1), by striking ''under this section'' and inserting ''described in subsection (a)''; and

(ii) in paragraph (2), by striking ''under this section''.

(b) REPEALS.—(1) Subsection (g) of section 2306c of title 10, United States Code, is repealed.

(2) Subsection (c) of section 811 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2608) is repealed.

SEC. 805. ADDITIONAL AUTHORITIES RELATING TO OBTAINING PERSONAL SERVICES.

(a) IN GENERAL.—Section 129b of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking ''in accordance with section 3109 of title 5''; and

(2) by adding at the end the following new subsection:

''(d) ADDITIONAL AUTHORITY.—(1) In addition to the authority provided under subsection (a), the Secretary of Defense may enter into personal services contracts with individuals, regardless of their nationality, outside of the United States.

''(2) The contracting officer for a personal services contract shall be responsible for ensuring that a personal services contract is the appropriate vehicle for carrying out the purpose of the contract.''.

(b) INTELLIGENCE COMPONENTS.—(1) Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 426. Personal services contracts: authority and limitations

''(a) PERSONAL SERVICES.—(1) The Secretary of Defense may, notwithstanding section 3109 of title 5, enter into personal services contracts in the United States if the personal services directly support the mission of a defense intelligence component or counter-intelligence organization.

''(2) The contracting officer for a personal services contract shall be responsible for ensuring that a personal services contract is the appropriate vehicle for carrying out the purpose of the contract.

''(b) DEFINITION.—In this section, the term 'defense intelligence component' means a component of the Department of Defense that is an element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

''426. Personal services contracts: authority and limitations.''.

(c) SPECIAL OPERATIONS COMMAND.—Section 167 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(l) PERSONAL SERVICES CONTRACTS.—(1) The Secretary of Defense may, notwithstanding section 3109 of title 5, enter into personal services contracts in the United States if the personal services directly support the mission of the special operations command.

''(2) The contracting officer for a personal services contract shall be responsible for ensuring that a personal services contract is the appropriate vehicle for carrying out the purpose of the contract.''.

SEC. 806. EVALUATION OF PROMPT PAYMENT PROVISIONS.

(a) EVALUATION REQUIREMENT.—The Secretary of Defense shall evaluate provisions of law and regulation relating to the prompt payment of amounts due contractors under contracts with the Department of Defense.

(b) MATTERS COVERED.—In carrying out such evaluation, the Secretary shall focus in particular on the implementation of prompt payment provisions with respect to small businesses, including—

(1) an analysis of compliance by the Department of Defense with chapter 39 of title 31, United States Code, and regulations applicable to the Department of Defense under that chapter, with respect to small business contractors;

(2) a determination of the number of Department of Defense contracts with small businesses that are not in compliance with prompt payment requirements; and

(3) a determination of the average length of time that elapses between performance of work by small business contractors under Department of Defense contracts and payment for such work.

Subtitle B—United States Defense Industrial Base Provisions

Part I—Critical Items Identification and Domestic Production Capabilities Improvement Program

SEC. 811. ASSESSMENT OF UNITED STATES DEFENSE INDUSTRIAL BASE CAPABILITIES.

(a) ASSESSMENT PROGRAM.—The Secretary of Defense, in coordination with the Secretary of each military department, shall establish a program to assess the capabilities of the United States defense industrial base to produce military systems necessary to support national security requirements.

(b) DESIGNEE.—The Secretary of each military department shall designate a position to be responsible for assisting in carrying out the program under subsection (a) with respect to the military department concerned. The person designated to serve in such position shall do the following:

(1) Report to the Service Acquisition Executive of the military department concerned on defense industrial base matters affecting the acquisition and production of military systems.

(2) Provide information to assist the Secretary of Defense in carrying out the Secretary's duties as a member of the National Defense Technology and Industrial Base Council (as established under section 2502 of title 10, United States Code).

(3) Oversee the collection of data to assist the Secretary of Defense in carrying out subsection (c).

(4) Oversee the process for identifying and determining critical items to assist the Secretary of Defense in carrying out section 812.

(c) COLLECTION OF DATA.—The Secretary of Defense shall collect data in support of the program. At a minimum, with respect to each procurement for a covered military system, the following information shall be collected:

(1) With respect to the contractor awarded the contract:

(A) An identification of the critical item or items included in the covered military system and whether the item is of a domestic or foreign source.

(B) Whether the contractor is a foreign contractor, and, if so—

(i) whether the contract was awarded on a sole source basis because of the unavailability of responsible offerors with United States production capabilities; or

(ii) whether the contract was awarded after receipt of offers from responsible offerors with United States production capabilities.

(C) Whether the contractor is a United States contractor, and, if the contractor plans to perform work under the contract outside the United States, an identification of the locations where the work (including research, development, and manufacturing) will be performed.

(2) With respect to the offerors submitting bids or proposals (other than the offeror awarded the contract):

(A) An identification of the critical item or items included in the covered military system and whether the item is of a domestic or foreign source.

(B) An identification of the domestic and foreign offerors and the locations where the work (including research, development, and manufacturing) was proposed to be performed under the contract.

(C) A statement of whether there were no offerors or whether there was only one offeror.

(d) CONFIDENTIALITY.—The Secretary of Defense shall make every effort to ensure that the information collected under this section from private sector entities remains confidential.

(e) ASSESSMENT.—The Secretary of Defense shall prepare an assessment of the data compiled under this section during every two-year period and shall submit the results of the assessment to the Committees on Armed Services of the Senate and the House of Representatives. The first such assessment shall cover the period of fiscal Year 2002 and fiscal Year 2003 and shall be submitted to the Committees no later than November 1, 2004.

SEC. 812. IDENTIFICATION OF CRITICAL ITEMS: MILITARY SYSTEM BREAKOUT LIST.

(a) IDENTIFICATION PROCESS.—The Secretary of Defense shall establish a process to identify, with respect to each military system—

(1) the items and components within the military system;

(2) the items and components within the military system that are essential, in accordance with subsection (c); and

(3) the items and components within the military system that are critical, in accordance with subsection (d).

(b) MILITARY SYSTEM BREAKOUT LIST.—The Secretary of Defense shall produce a list, to be known as the ''military system breakout list'', consisting of the items and components identified under the process established under subsection (a).

(c) ESSENTIAL ITEMS AND COMPONENTS.—For purposes of determining whether an item or component is essential, the Secretary shall include only an item or component that—

(1) is essential for the proper functioning and performance of the military system of which the item or component is a part; or

(2) involves a critical technology (as defined in section 2500 of title 10, United States Code).

(d) CRITICAL ITEMS OR COMPONENTS.—(1) For purposes of determining whether an item or component is critical, the Secretary shall include only an item or component that—

(A) is essential, as determined under subsection (c); and

(B) with respect to which there is a high barrier to entry for the production of the item or component.

(2) For purposes of paragraph (1)(B), a high barrier to entry for the production of an item or component means that—

(A) there would be a significant period of time required to reestablish United States production capabilities; and

(B) the level of investment necessary to reestablish United States production capabilities that are able to meet surge and sustained production rates for wartime requirements is significant.

(e) REPORT.—Not later than November 1 of each year, beginning with November 1, 2004, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section. The report shall include the following:

(1) A list of each military system covered by the process established under subsection (a).

(2) A list of items and components determined to be essential.

(3) A list of items and components determined to be critical.

(4) A list of the items and components contained in the lists provided under paragraphs (2) and (3) that are manufactured or produced outside the United States.

SEC. 813. PROCUREMENT OF CERTAIN CRITICAL ITEMS FROM AMERICAN SOURCES.

(a) REQUIREMENT FOR PROCUREMENT OF CERTAIN CRITICAL ITEMS PRODUCED IN UNITED STATES.—With respect to items that meet the criteria set forth in subsection (b), the Secretary of Defense may procure such items only if the items are entirely produced in the United States.

(b) CRITERIA.—For purposes of subsection (a), an item meets the criteria of this subsection if—

(1) it is a critical item; and

(2) there are limited sources of production capability of the item in the United States.

(c) EXCEPTION.—Subsection (a) does not apply to a procurement of an item when the Secretary of Defense determines in writing that the Department of Defense's need for the item is of such an unusual and compelling urgency that the United States would be seriously injured unless the Department is permitted to procure the item from sources outside the United States.

(d) APPLICABILITY.—Subsection (a) shall apply to contracts for the procurement of covered military systems and subcontracts under such contracts.

SEC. 814. PRODUCTION CAPABILITIES IMPROVEMENT FOR CERTAIN CRITICAL ITEMS USING DEFENSE INDUSTRIAL BASE CAPABILITIES FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Industrial Base Capabilities Fund (hereafter in this section referred to as the'Fund').

(b) MONEYS IN FUND.—There shall be credited to the Fund amounts appropriated to it.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $100,000,000 for fiscal year 2004.

(d) USE OF FUND.—The Secretary of Defense is authorized to use all amounts in the Fund, subject to appropriation, for the purposes of establishing capabilities within the United States to produce critical items that meet any of the following criteria:

(1) The item is available only from foreign contractors.

(2) The item is available only from a limited number of United States contractors.

(e) LIMITATION ON USE OF FUND.—Before the obligation of any amounts in the Fund, the Secretary of Defense shall submit to Congress a report describing the Secretary's plans for implementing the Fund established in subsection (a), including the priorities for the obligation of amounts in the Fund, the criteria for determining the recipients of such amounts, and the mechanisms through which such amounts may be provided to the recipients.

(f) AVAILABILITY OF FUNDS.—Amounts in the Fund shall remain available until expended.

(g) FUND MANAGER.—The Secretary of Defense shall designate a Fund manager. The duties of the Fund manager shall include—

(1) ensuring the visibility and accountability of transactions engaged in through the Fund; and

(2) reporting to Congress each year regarding activities of the Fund during the previous fiscal year.

Part II—Requirements Relating to Specific Items

SEC. 821. DOMESTIC SOURCE LIMITATION AMENDMENTS.

(a) ADDITIONAL ITEMS.—Section 2534(a) of title 10, United States Code, is amended by adding at the end of the following new paragraphs:

''(6) Fuzes used for ordnance.

''(7) Microwave power tubes or traveling wave tubes.

''(8) PAN carbon fiber.

''(9) Aircraft tires.

''(10) Ground vehicle tires.

''(11) Tank track assemblies.

''(12) Tank track components.

''(13) Packaging in direct contact with meals within meals ready-to-eat listed in Federal Supply Class 8970.''.

(b) AMENDMENT OF NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—Paragraph (1) of section 2500 of title 10, United States Code, is amended—

(1) by striking all that follows after ''States'' to the end of the paragraph and inserting a period; and

(2) by striking ''production, or maintenance'' and inserting ''production, and maintenance''.

(c) AMENDMENT OF WAIVER AUTHORITY.—Section 2534(d) of title 10, United States Code, is amended—

(1) in the text before paragraph (1), by inserting ''in writing'' after ''determines'';

(2) by striking paragraphs (1), (2), (3), (6), (7), and (8);

(3) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively, and in such paragraph (3), as so redesignated, by adding at the end the following: ''This exception shall not apply to items determined to be critical by the Secretary of Defense under section 812 of the National Defense Authorization Act for Fiscal Year 2004.''; and

(4) by inserting before paragraph (2), as so redesignated, the following new paragraph (1):

''(1) The Department of Defense's need for the item is of such an unusual and compelling urgency that the United States would be seriously injured unless the Department is permitted to procure the item from sources outside the United States.''.

SEC. 822. REQUIREMENTS RELATING TO BUYING COMMERCIAL ITEMS CONTAINING SPECIALTY METALS FROM AMERICAN SOURCES.

(a) SPECIALTY METALS AND OTHER INDUSTRIAL BASE PROTECTION MEASURES.—(1) Subsection (b) of section 2533a of title 10, United States Code, is amended—

(A) in paragraph (1)(B), by inserting before the semicolon the following: ''and the materials and components thereof''; and

(B) in paragraph (2), by inserting before the period the following: '' and any specialty metal that may be part of another item''.

(2) Subsection (c) is amended—

(A) by striking ''or the Secretary of the military department concerned''; and

(B) by adding at the end the following: ''For each such determination, the Secretary of Defense shall notify Congress in writing of the factors supporting the determination.''.

(3) Section 2533a of such title is amended by adding at the end the following new subsection:

''(l) AUTHORITY NOT DELEGABLE.—The Secretary may not delegate any authority under this section to anyone other than the Under Secretary of Defense for Acquisition, Technology, and Logistics.''.

(b) EXCEPTION TO BERRY AMENDMENT FOR COMMERCIAL ITEMS CONTAINING SPECIALTY METALS.—Section 2533a of title 10, United States Code, is amended—

(1) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(2) by inserting after subsection (h) the following new subsection:

''(i) EXCEPTION FOR COMMERCIAL ITEMS CONTAINING SPECIALTY METALS.—

''(1) IN GENERAL.—Subsection (a) does not apply to the procurement of a commercial item containing specialty metals if—

''(A) the contractor agrees to comply with the requirement set forth in paragraph (2); or

''(B) the Secretary of Defense determines in writing that the Department of Defense's need for the commercial item containing specialty metal is of such an unusual and compelling urgency that the United States would be seriously injured unless the Department is permitted to procure the item containing specialty metal from outside the United States.

''(2) REQUIREMENT TO PURCHASE EQUIVALENT AMOUNT OF DOMESTIC METAL.—For purposes of paragraph (1)(A), the requirement set forth in this paragraph is that the contractor for each contract entered into by the Secretary for the procurement of a commercial item containing specialty metal agrees to purchase, over the 18-month period beginning on the date of award of the contract, an amount of specialty metal that is—

''(A) produced, including such functions as melting and smelting, in the United States; and

''(B) equivalent to—

''(i) the amount of specialty metal (measured by factors including volume, type, and grade) purchased to carry out the work under the contract (including the work under each subcontract at any tier under the contract); plus

''(ii) 10 percent of the amount referred to in clause (i).

''(3) RELATIONSHIP TO OTHER EXCEPTIONS.—The exceptions under subsections (c), (d), and (h) of this section shall not apply to the procurement of a commercial item containing specialty metals.

''(4) NOTICE TO CONGRESS.—The Secretary of Defense shall not enter into a contract to procure a commercial item containing specialty metal pursuant to the exception in subsection (a) until Congress is notified that the Secretary has applied the exception and a period of 15 days has expired after such notification is made.

''(5) NOTICE TO INDUSTRY.—The Secretary of Defense shall publish a notice in the Federal Register on the method that the Department of Defense will use to measure an equivalent amount of specialty metal for purposes of this subsection. Such a method shall consider factors such as volume, type, and grade of specialty metal that otherwise would be produced from United States sources.''.

(c) REMOVAL OF SPECIALTY METAL FROM SUBSECTION (e) EXCEPTION.—Subsection (e) of such section is amended—

(1) in the heading, by striking ''SPECIALTY METALS AND''; and

(2) by striking ''specialty metals or''.

(d) CONFORMING AMENDMENT.—Subsection (a) of section 2533a of such title is amended by striking ''through (h)'' and inserting ''through (i)''.

(e) EFFECTIVE DATE.—Section 2533a(i) of title 10, United States Code, as added by subsection (a), shall apply to each contract for the procurement of a commercial item containing specialty metal entered into before, on, or after the date of the enactment of this Act.

SEC. 823. ELIMINATION OF UNRELIABLE SOURCES OF DEFENSE ITEMS AND COMPONENTS.

(a) IDENTIFICATION OF CERTAIN COUNTRIES.—The Secretary of Defense shall identify foreign countries that, by law, policy, or regulation, restricted the provision or sale of military goods or services to the United States because of United States policy toward, or military operations in, Iraq since September 12, 2002.

(b) PROHIBITION ON PROCUREMENT OF CERTAIN ITEMS FROM IDENTIFIED COUNTRIES.—The Secretary of Defense may not procure any items or components contained in military systems if the items or components, or the systems, are manufactured in any foreign country identified under subsection (a).

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (b) if the Secretary determines in writing and notifies Congress that the Department of Defense's need for the item is of such an unusual and compelling urgency that the United States would be seriously injured unless the Department is permitted to procure the item from the sources identified in subsection (a).

(d) EFFECTIVE DATE.—(1) Subject to paragraph (2), subsection (b) applies to contracts in existence on the date of the enactment of this Act or entered into after such date.

(2) With respect to contracts in existence on the date of the enactment of this Act, the Secretary of Defense shall take such action as is necessary to ensure that such contracts are in compliance with subsection (b) not later than 24 months after such date.

SEC. 824. CONGRESSIONAL NOTIFICATION REQUIRED BEFORE EXERCISING EXCEPTION TO REQUIREMENT TO BUY SPECIALTY METALS FROM AMERICAN SOURCES.

Section 2533a(c) of title 10, United States Code, is amended by adding at the end the following new sentence: ''The Secretary of Defense or the Secretary of the military department concerned may not procure specialty metals pursuant to the exception authorized by this subsection until the Secretary submits to Congress and publishes in the Federal Register notice of the determination made under this subsection and a period of 15 days expires after the date such notification is submitted.''.

SEC. 825. REPEAL OF AUTHORITY FOR FOREIGN PROCUREMENT OF PARA-ARAMID FIBERS AND YARNS.

Section 807 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2084) is repealed.

SEC. 826. REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS TO USE MACHINE TOOLS ENTIRELY PRODUCED WITHIN THE UNITED STATES.

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2435 the end the following new section:

''§2436. Major defense acquisition programs: requirement for certain items to be entirely produced in United States

''The Secretary of Defense shall require that, for any procurement of a major defense acquisition program—

''(1) the contractor for the procurement shall use only machine tools entirely produced within the United States to carry out the contract; and

''(2) any subcontractor under the contract shall comply with paragraph (1) in the case of any contract in an amount that is $5,000,000 or greater.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2436. Major defense acquisition programs: requirement for certain items to be entirely produced in United States.''.

(b) EFFECTIVE DATE.—Section 2436 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the date occurring four years after the date of the enactment of this Act.

Part III—General Provisions

SEC. 831. DEFINITIONS.

In this subtitle:

(1) COVERED MILITARY SYSTEM.—The term ''covered military system'' means a military system that includes one or more critical items.

(2) MILITARY SYSTEM.—The term ''military system'' means a military system necessary to support national security requirements, as determined by the Secretary of Defense, and which costs more than $25,000. At a minimum, the term includes the following:

(A) Weapons listed in Federal Supply Group 10.

(B) Nuclear ordnance listed in Federal Supply Group 11.

(C) Fire control equipment listed in Federal Supply Group 12.

(D) Ammunition and explosives listed in Federal Supply Group 13.

(E) Guided missiles listed in Federal Supply Group 14.

(F) Aircraft and related components, accessories, and equipment listed in Federal Supply Groups 15, 16, and 17.

(G) Space vehicles listed in Federal Supply Group 18.

(H) Ships, small craft, pontoons, and floating docks listed in Federal Supply Group 19.

(I) Ship and marine equipment listed in Federal Supply Group 20.

(J) Tracked combat vehicles listed in Federal Supply Class 2350.

(K) Engines, turbines, and components listed in Federal Supply Group 28.

(3) CRITICAL ITEM.—The term ''critical item'' means an item or component determined to be critical by the Secretary of Defense under section 812.

(4) ITEM.—The term ''item'' means an end item.

(5) COMPONENT.—The term ''component'' means an article, material, or supply incorporated into an end item. The term includes software and subassemblies.

(6) FOREIGN CONTRACTOR.—The term ''foreign contractor'' means a contractor or subcontractor

organized or existing under the laws of a country other than the United States.

(7) UNITED STATES CONTRACTOR.—The term ''United States contractor'' means a contractor or subcontractor organized or existing under the laws of the United States.

(8) UNITED STATES PRODUCTION CAPABILITIES.—The term ''United States production capabilities'' means, with respect to an item or component, facilities located in the United States to design, develop, or manufacture the item or component.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 901. CHANGE IN TITLE OF SECRETARY OF THE NAVY TO SECRETARY OF THE NAVY AND MARINE CORPS.

(a) CHANGE IN TITLE.—The position of the Secretary of the Navy is hereby redesignated as the Secretary of the Navy and Marine Corps.

(b) REFERENCES.—Any reference to the Secretary of the Navy in any law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the Secretary of the Navy and Marine Corps.

SEC. 902. REDESIGNATION OF NATIONAL IMAGERY AND MAPPING AGENCY AS NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

(a) REDESIGNATION.—The National Imagery and Mapping Agency of the Department of Defense is hereby redesignated as the National Geospatial-Intelligence Agency.

(b) DEFINITION OF GEOSPATIAL INTELLIGENCE.—Section 467 of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5) The term 'geospatial intelligence' means the exploitation and analysis of imagery and geospatial information to describe, assess, and visually depict physical features and geographically referenced activities on the earth. Geospatial intelligence consists of imagery, imagery intelligence, and geospatial information.''.

(c) AGENCY MISSIONS.—(1) Section 442(a) of title 10, United States Code, is amended—

(A) in paragraph (1), by inserting ''geospatial intelligence consisting of'' after ''provide''; and

(B) in paragraph (2), by striking ''Imagery, intelligency, and information'' and inserting ''Geospatial intelligence''.

(2) Section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a)) is amended by striking ''imagery'' and inserting ''geospatial intelligence''.

(d) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The heading of chapter 22 is amended to read as follows:

''CHAPTER 22—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY''.

(2) Chapter 22 is amended—

(A) by striking ''National Imagery and Mapping Agency'' each place it appears and inserting ''National Geospatial-Intelligence Agency''; and

(B) in section 453(b), by striking ''NIMA'' in paragraphs (1) and (2) and inserting ''NGA''.

(3) Section 193 is amended—

(A) by striking ''National Imagery and Mapping Agency'' in subsections (d)(1), (d)(2), (e), and (f)(4) and inserting ''National Geospatial-Intelligence Agency'';

(B) in the heading for subsection (d), by striking ''NATIONAL IMAGERY AND MAPPING AGENCY'' and inserting ''NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY''; and

(C) in the heading for subsection (e), by striking ''NIMA'' and inserting ''NGA''.

(4) Section 201 is amended by striking ''National Imagery and Mapping Agency'' in subsections (b)(2)(C) and (c)(2)(C) and inserting ''National Geospatial-Intelligence Agency''.

(5)(A) Section 424 is amended by striking ''National Imagery and Mapping Agency'' in subsection (b)(3) and inserting ''National Geospatial-Intelligence Agency''.

(B)(i) The heading of such section is amended to read as follows:

''§ 424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies''.

(ii) The item relating to that section in the table of sections at the beginning of subchapter I of chapter 21 is amended to read as follows:

''424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies.''.

(6) Section 425(a) is amended by adding at the end the following new paragraph:

''(5) The words 'National Geospatial-Intelligence Agency', the initials 'NGA,' or the seal of the National Geospatial-Intelligence Agency.''.

(7) Section 1614(2)(C) is amended by striking ''National Imagery and Mapping Agency'' and inserting ''National Geospatial-Intelligence Agency''.

(8) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, are each amended by striking ''Imagery and Mapping'' in the item relating to chapter 22 and inserting ''Geospatial-Intelligence''.

(e) CONFORMING AMENDMENTS TO NATIONAL SECURITY ACT OF 1947.—The National Security Act of 1947 is amended as follows:

(1) Section 3 (50 U.S.C. 401a) is amended by striking ''National Imagery and Mapping Agency'' in paragraph (4)(E) and inserting ''National Geospatial- Intelligence Agency''.

(2) Section 105 (50 U.S.C. 403–5) is amended by striking ''National Imagery and Mapping Agency'' in subsections (b)(2) and (d) and inserting ''National Geospatial-Intelligence Agency''.

(3) Section 105A (50 U.S.C. 403–5a) is amended by striking ''National Imagery and Mapping Agency'' in subsection (b)(1)(C) and inserting ''National Geospatial-Intelligence Agency''.

(4) Section 105C (50 U.S.C. 403-5c) is amended—

(A) by striking ''National Imagery and Mapping Agency'' each place it appears and inserting ''National Geospatial-Intelligence Agency'';

(B) by striking ''NIMA'' each place it appears and inserting ''NGA''; and

(C) by striking ''NATIONAL IMAGERY AND MAPPING AGENCY'' in the section heading and inserting ''NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY''.

(5) Section 106 (50 U.S.C. 403–6) is amended by striking ''National Imagery and Mapping Agency'' in subsection (a)(2)(C) and inserting ''National Geospatial-Intelligence Agency''.

(6) Section 110 (50 U.S.C. 404e) is amended—

(A) by striking ''National Imagery and Mapping Agency'' in subsections (a), (b), and (c) and inserting ''National Geospatial-Intelligence Agency''; and

(B) by striking ''NATIONAL IMAGERY AND MAPPING AGENCY'' in the section heading and inserting ''NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY''.

(7) The table of contents in the first section is amended—

(A) by striking the item relating to section 105C and inserting the following:

''Sec. 105C. Protection of operational files of National Geospatial-Intelligence Agency.'';

and

(B) by striking the item relating to section 110 and inserting the following:

''Sec. 110. National mission of National Geospatial-Intelligence Agency.''.

(f) CROSS REFERENCE CORRECTION.—Section 442(d) of title 10, United States Code, is by striking ''section 120(a) of the National Security Act of 1947'' and inserting ''section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a))''.

(g) REFERENCES.—Any reference to the National Imagery and Mapping Agency in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the National Geospatial-Intelligence Agency.

SEC. 903. PILOT PROGRAM FOR PROVISION OF SPACE SURVEILLANCE NETWORK SERVICES TO NON-UNITED STATES GOVERNMENTAL ENTITIES.

(a) IN GENERAL.—Chapter 135 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2272. Space surveillance network: pilot program for provision of satellite tracking support to entities outside Unites States Government

''(a) PILOT PROGRAM.—The Secretary of Defense may carry out a pilot program to determine the feasibility and desirability of providing to non-United States Governmental entities space surveillance data support described in subsection (b).

''(b) SPACE SURVEILLANCE DATA SUPPORT.—Under such a pilot program, the Secretary may provide to a non-United States Governmental entity, subject to an agreement described in subsection (c), the following:

''(1) Satellite tracking services from assets owned or controlled by the Department of Defense, but only if the Secretary determines, in the case of any such agreement, that providing such services to that entity is in the national security interests of the United States.

''(2) Space surveillance data and the analysis of space surveillance data, but only if the Secretary determines, in the case of any such agreement, that providing such data and analysis to that entity is in the national security interests of the United States.

''(c) REQUIRED AGREEMENT.—The Secretary may not provide space surveillance data support to a non-United States Governmental entity under the pilot program unless that entity enters into an agreement with the Secretary under which the entity—

''(1) agrees to pay an amount that may be charged by the Secretary under subsection (f); and

''(2) agrees not to transfer any data or technical information received under the agreement, including the analysis of tracking data, to any other entity without the Secretary's express approval.

''(d) REQUIREMENTS WITH RESPECT TO FOREIGN TRANSACTIONS.—(1) The Secretary may enter into an agreement under subsection (c) to provide space surveillance data support to a foreign government or other foreign entity only with the concurrence of the Secretary of State.

''(2) In the case of such an agreement that is entered into with a foreign government or other foreign entity, the Secretary of Defense may provide approval under subsection (c)(2) for a transfer of data or technical information only with the concurrence of the Secretary of State.

''(e) PROHIBITION CONCERNING PROVISION OF INTELLIGENCE ASSETS OR DATA.—Nothing in this section shall be considered to authorize the provision of services or information concerning, or derived from, United States intelligence assets or data.

''(f) CHARGES.—As a condition of an agreement under subsection (c), the Secretary of Defense may require the non-United States Governmental entity entering into the agreement to pay to the Department of Defense—

''(1) such amounts as the Secretary determines to be necessary to reimburse the Department of Defense for the costs to the Department of providing space surveillance data support under the agreement; and

''(2) any other amount or fee that the Secretary may prescribe

''(g) CREDITING OF FUNDS RECEIVED.—Funds received pursuant to an agreement under this section shall be credited to accounts of the Department of Defense that are current when the proceeds are received and that are available for

the same purposes as the accounts originally charged to perform the services. Funds so credited shall merge with and become available for obligation for the same period as the accounts to which they are credited.

''(h) PROCEDURES.—The Secretary shall establish procedures for the conduct of the pilot program. As part of those procedures, the Secretary may allow space surveillance data and analytical support to be provided through a contractor of the Department of Defense.

''(i) DURATION OF PILOT PROGRAM.—The pilot program under this section shall be conducted during the three-year period beginning on a date specified by the Secretary of Defense, which date shall be not later than 180 days after the date of the enactment of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2272. Space surveillance network: pilot program for provision of satellite tracking services and data to entities outside Unites States Government.''.

SEC. 904. CLARIFICATION OF RESPONSIBILITY OF MILITARY DEPARTMENTS TO SUPPORT COMBATANT COMMANDS.

Sections 3013(c)(4), 5013(c)(4), and 8013(c)(4) of title 10, United States Code, are each amended by striking ''(to the maximum extent practicable)''.

SEC. 905. BIENNIAL REVIEW OF NATIONAL MILITARY STRATEGY BY CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) BIENNIAL REVIEW.—Section 153 of title 10, United States Code, by adding at the end the following new subsection:

''(d) BIENNIAL REVIEW OF NATIONAL MILITARY STRATEGY.—(1) Not later then February 15 of each even-numbered year, the Chairman shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of a comprehensive examination of the national military strategy. Each such examination shall be conducted by the Chairman in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified commands.

''(2) Each report on the examination of the national military strategy under paragraph (1) shall include the following:

''(A) Delineation of a national military strategy consistent with the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a) and the most recent Quadrennial Defense Review prescribed by the Secretary of Defense pursuant to section 118 of this title.

''(B) A description of the strategic environment and the opportunities and challenges that affect United States national interests and United States national security.

''(C) A description of the regional threats to United States national interests and United States national security.

''(D) A description of the international threats posed by terrorism, weapons of mass destruction, and asymmetric challenges to United States national security.

''(E) Identification of United States national military objectives and the relationship of those objectives to the strategic environment, regional, and international threats.

''(F) Identification of the strategy, underlying concepts, and component elements that contribute to the achievement of United States national military objectives.

''(G) Assessment of the capabilities and adequacy of United States forces (including both active and reserve components) to successfully execute the national military strategy.

''(H) Assessment of the capabilities, adequacy, and interoperability of regional allies of the United States and or other friendly nations to support United States forces in combat operations and other operations for extended periods of time.

''(I) Assessment of the resources, basing requirements, and support structure needed to provide the capabilities necessary to be assured United States forces can successfully achieve national military objectives and to assess what resources and support might be required to sustain allies or friendly nation forces during combat operations.

''(3)(A) As part of the assessment under this subsection, the Chairman, in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified commands, shall undertake an assessment of the nature and magnitude of the strategic and military risks associated with successfully executing the missions called for under the current National Military Strategy.

''(B) In preparing the assessment of risk, the Chairman should assume the existence of those threats described in subparagraphs (C) and (D) of paragraph (2) and should assess the risk associated with two regional threats occurring nearly simultaneously.

''(C) In addition to the assumptions to be made under subparagraph (B), the Chairman should make other assumptions pertaining to the readiness of United States forces (in both the active and reserve components), the length of conflict and the level of intensity of combat operations, and the levels of support from allies and other friendly nations.

''(4) Before submitting a report under this subsection to the Committees on Armed Services of the Senate and House of Representatives, the Chairman shall provide the report to the Secretary of Defense. The Secretary's assessment and comments thereon (if any) shall be included with the report. If the Chairman's assessment in such report in any year is that the risk associated with executing the missions called for under the National Military Strategy is significant, the Secretary shall include with the report as submitted to those committees the Secretary's plan for mitigating the risk.''.

(b) CONFORMING AMENDMENT.—Subsection (b)(1) of such section is amended by striking ''each year'' and inserting ''of each odd-numbered year''.

SEC. 906. AUTHORITY FOR ACCEPTANCE BY ASIA-PACIFIC CENTER FOR SECURITY STUDIES OF GIFTS AND DONATIONS FROM NONFOREIGN SOURCES.

(a) AUTHORITY.—Subsection (a) of section 2611 of title 10, United States Code, is amended—

(1) by striking ''FOREIGN'' in the subsection caption;

(2) by striking ''foreign'' in paragraph (1) after ''Center,''; and

(3) by adding at the end of paragraph (1) the following sentence: ''Such gifts and donations may be accepted from any agency of the United States, any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any other private source in the United States or a foreign country.''.

(b) CONFORMING AMENDMENTS.—Such section is further amended

(1) by striking ''foreign'' in subsection (c); and

(2) in subsection (f)—

(A) by striking ''FOREIGN'' in the subsection caption;

(B) by striking ''foreign'' after ''section, a''; and

(C) by striking ''from a foreign'' and all that follows through ''country.'' and inserting a period.

(c) CLERICAL AMENDMENTS.— The heading of such section, and the item relating to such section in the table of sections at the beginning of chapter 155 of such title, are each amended by striking the third word after the colon.

SEC. 907. REPEAL OF ROTATING CHAIRMANSHIP OF ECONOMIC ADJUSTMENT COMMITTEE.

Section 4004(b) of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101–510; 10 U.S.C. 2391 note) is amended—

(1) by striking ''Until October 1, 1997, the'' and inserting ''The''; and

(2) by striking the second sentence.

SEC. 908. PILOT PROGRAM FOR IMPROVED CIVILIAN PERSONNEL MANAGEMENT.

(a) PILOT PROGRAM.—(1) The Secretary of Defense may carry out a pilot program using an automated workforce management system to demonstrate improved efficiency in the performance of civilian personnel management.

(2) Under the pilot program, the Secretary of Defense shall provide the Secretary of each military department with the authority for the following:

(A) To use an automated workforce management system for its civilian workforce to assess its potential to substantially reduce hiring cycle times, lower labor costs, increase efficiency, improve performance management, provide better management reporting, and enable it to make operational new personnel management flexibilities granted under the civilian personnel transformation program.

(B) Identify one regional civilian personnel center (or equivalent) in each military department for participation in the pilot program.

(3) The Secretary may carry out the pilot program under this subsection at each selected regional civilian personnel center for a period of two years beginning not later than March 1, 2004.

(b) PILOT PROGRAM CHARACTERISTICS.—The pilot program civilian personnel management system shall have at a minimum the following characteristics:

(1) Currently in use by Federal government agencies outside the Department of Defense.

(2) Able to be purchased on an annual subscription basis.

(3) Requires no capital investment, software license fees, transaction charges, or ''per seat'' or ''concurrent user'' restrictions.

(4) Capable of automating the workforce management functions of job definition, position management, recruitment, staffing, and performance management using integrated vendor-supplied and supported data, expert system rules engines, and software functionality across those functions.

(5) Has a ''native web'' technical architecture and an Oracle database.

(6) Fully hosted by the vendor so that the customer requires only Internet access and an Internet browser to use the system.

(8) Capable of operating completely ''server side'' so that no software is required on the client system and no invasive elements are used.

(c) IMPLEMENTATION PLAN.—(1) The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a plan for the implementation of the pilot program. The plan shall be submitted no later than six months after the date of the enactment of this Act.

(2) The plan shall include the following:

(A) The Secretary's request to the Office of Personnel Management to conduct the pilot program as a Federal civilian personnel demonstration project under chapter 47 of title 5, United States Code, or a plan to provide for the pilot program through another plan.

(B) The expected cost of the pilot program.

(C) Identification of the regional civilian personnel centers for participation in the pilot program and the criteria used to select them.

(D) Expected timing for providing to Congress the results of the pilot program and recommendations of the Secretary.

(d) IMPLEMENTATION.—The Secretary may not begin to implement the pilot program until a period of 30 days has elapsed after the date of the

submission of the plan for the pilot program under subsection (c).

SEC. 909. EXTENSION OF CERTAIN AUTHORITIES APPLICABLE TO THE PENTAGON RESERVATION TO INCLUDE DESIGNATED PENTAGON CONTINUITY-OF-GOVERNMENT LOCATIONS.

Section 2674 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(g) For purposes of subsections (b), (c), (d), and (e), the terms 'Pentagon Reservation' and 'National Capital Region' shall be treated as including the land and physical facilities at the Raven Rock Mountain Complex and such other areas of land, locations, and physical facilities of the Department of Defense within 100 miles of the District of Columbia as the Secretary of Defense determines are necessary to meet the needs of the Department of Defense directly relating to continuity of operations and continuity of government.''.

SEC. 910. DEFENSE ACQUISITION WORKFORCE REDUCTIONS.

(a) REVISED LIMITATION.—Subchapter V of chapter 87 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1765. Defense acquisition workforce: limitation

''(a) LIMITATION.—Effective October 1, 2008, the number of defense acquisition and support personnel in the Department of Defense may not exceed 75 percent of the baseline number.

''(b) PHASED REDUCTION.—The number of defense acquisition and support personnel in the Department of Defense—

''(1) as of October 1, 2004, may not exceed 95 percent of the baseline number;

''(2) as of October 1, 2005, may not exceed 90 percent of the baseline number;

''(3) as of October 1, 2006, may not exceed 85 percent of the baseline number; and

''(4) as of October 1, 2007, may not exceed 80 percent of the baseline number.

''(c) BASELINE NUMBER.—In this section, the term 'baseline number' means the number of defense acquisition and support personnel in the Department of Defense as of October 1, 2003.

''(d) DEFENSE ACQUISITION AND SUPPORT PERSONNEL DEFINED.—In this section, the term 'defense acquisition and support personnel' means military and civilian personnel (other than civilian personnel who are employed at a maintenance depot) who are assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58 dated January 14, 1992), and any other organizations which the Secretary may determine to have a predominantly acquisition mission.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

''1765. Defense acquisition workforce: limitation.''.

SEC. 911. REQUIRED FORCE STRUCTURE.

(a) ARMY.—Section 3062 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(e) The Army shall be so organized as to include not less than—

''(1) 10 active and eight National Guard combat divisions or their equivalents;

''(2) one active armored cavalry regiment and one light cavalry regiment or their equivalents;

''(3) 15 National Guard enhanced brigades or their equivalents; and

''(4) such other active and reserve component land combat, rotary-wing aviation, and other services as may be required to support forces specified in paragraphs (1) through (3).''.

(b) NAVY.—Section 5062 of such title is amended by adding at the end the following new subsection:

''(d) The Navy, within the Department of the Navy, shall be so organized as to include—

''(1) not less than 305 vessels in active service;

''(2) not less than 12 aircraft carrier battle groups or their equivalents, not less than 12 amphibious ready groups or their equivalents, not less than 55 attack submarines, not less than 108 active surface combatant vessels, and not less than 8 reserve combatant vessels; and

''(3) such other active and reserve naval combat, naval aviation, and service forces as may be required to support forces specified in paragraphs (1) and (2).''.

(c) AIR FORCE.—Section 8062 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(g) Notwithstanding subsection (e), the Air Force shall be so organized as to include not less than—

''(1) 46 active fighter squadrons or their equivalents;

''(2) 38 National Guard and Reserve squadrons or their equivalents;

''(3) 96 combat-coded bomber aircraft in active service; and

''(4) such other squadrons, reserve groups, and supporting auxiliary and reserve units as may be required to support forces specified in paragraphs (1) through (3).''.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2004 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2003.

(a) DOD AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2003 in the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to the following:

(1) Chapters 3 and 8 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11).

(2) Any Act enacted after May 23, 2003, making supplemental appropriations for fiscal year 2003 for the military functions of the Department of Defense.

(b) NNSA AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Energy for fiscal year 2003 in the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to the following:

(1) Chapter 4 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11).

(2) Any Act enacted after May 23, 2003, making supplemental appropriations for fiscal year 2003 for the atomic energy defense activities of the Department of Energy.

SEC. 1003. AUTHORITY TO TRANSFER PROCUREMENT FUNDS FOR A MAJOR DEFENSE ACQUISITION PROGRAM FOR CONTINUED DEVELOPMENT WORK ON THAT PROGRAM.

(a) AUTHORITY.—Section 2214 of title 10, United States Code, is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

''(b) TRANSFER OF PROCUREMENT FUNDS FOR DEVELOPMENT ACTIVITIES FOR MAJOR DEFENSE ACQUISITION SYSTEMS.—(1) In the case of a major defense acquisition program (as defined in section 2430 of this title) for which funds are currently available both for procurement and for research, development, test, and evaluation, if the Secretary concerned determines that funds are required for further research, development, test, and evaluation activities for that program in excess of the funds currently available for that purpose, the Secretary may (subject to paragraph (2)) transfer funds available for that program for procurement to funds available for that program for research, development, test, and evaluation for the purpose of continuing research, development, test, and evaluation activities for that program.

''(2)(A) The total amount transferred under the authority of paragraph (1) for any acquisition program may not exceed $20,000,000.

''(B) The total amount transferred under the authority of paragraph (1) from amounts made available for any fiscal year may not exceed $250,000,000.

''(3) The authority provided by paragraph (1) is in addition to any other transfer authority that may be provided by law.

''(4) Upon a determination that all or part of the funds transferred under paragraph (1) are not necessary for the purpose for which the transfer was made, such amounts may be transferred back to a Procurement appropriation for the purpose of procurement of the acquisition program for which funds were transferred.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply with respect to funds appropriated for a fiscal year before fiscal year 2004.

SEC. 1004. RESTORATION OF AUTHORITY TO ENTER INTO 12-MONTH LEASES AT ANY TIME DURING THE FISCAL YEAR.

Section 2410a(a) of title 10, United States Code, is amended by inserting after ''severable services'' the following: ''and the lease of real or personal property, including the maintenance of such property when contracted for as part of the lease agreement,''.

SEC. 1005. AUTHORITY FOR RETENTION OF ADDITIONAL AMOUNTS REALIZED FROM ENERGY COST SAVINGS.

(a) INCREASE IN AMOUNT OF ENERGY COST SAVINGS RETAINED.—Section 2865(b)(1) of title 10, United States Code, is amended by striking ''Two-thirds of the portion of the funds appropriated to Department of Defense for a fiscal year that is'' and inserting ''Funds appropriated to the Department of Defense for a fiscal year that are''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to funds appropriated for a fiscal year before fiscal year 2004.

SEC. 1006. REPEAL OF REQUIREMENT FOR TWO-YEAR BUDGET CYCLE FOR THE DEPARTMENT OF DEFENSE.

Section 1405 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 31 U.S.C. 1105 note), is repealed.

SEC. 1007. AUTHORITY TO PROVIDE REIMBURSEMENT FOR USE OF PERSONAL CELLULAR TELEPHONES WHEN USED FOR OFFICIAL GOVERNMENT BUSINESS.

(a) IN GENERAL.—(1) Chapter 134 of title 10, United States Code, is amended by inserting after section 2257 the following new section:

''§ 2258. Personal cellular telephones: reimbursement when used for Government business

''(a) GENERAL AUTHORITY.—The Secretary of Defense may reimburse members of the Army, Navy, Air Force, and Marine Corp, and civilian officers and employees of the Department of Defense, for cellular telephone use on a privately owned cellular telephone when used on official Government business. Such reimbursement shall be on a flat-rate basis.

''(b) REIMBURSEMENT RATE.—The Secretary of Defense may prescribe the reimbursement rate for purposes of subsection (a). That reimbursement rate may not exceed the equivalent Government costs of providing a cellular telephone to employees on official Government business.''.

(2) The table of sections at the beginning of subchapter II of such chapter is amended by inserting after the item relating to section 2257 the following new item:

''2258. Personal cellular telephones: reimbursement when used for Government business.''.

(b) EFFECTIVE DATE.—Section 2258 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2003, and shall apply with respect to the use of cellular phones on or after that date.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. REPEAL OF REQUIREMENT REGARDING PRESERVATION OF SURGE CAPABILITY FOR NAVAL SURFACE COMBATANTS.

(a) REPEAL.—Section 7296 of title 10, United States Code, is amended by striking subsection (b).

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) by striking ''(3) Any notification under paragraph (1)(A)'' and inserting ''(b) CONTENT OF NOTIFICATION.—Any notification under subsection (a)(1)(A)'';

(2) by redesignating subparagraphs (A), (B), and (C) of subsection (b) (as redesignated by paragraph (1)) as paragraphs (1), (2), and (3), respectively; and

(3) by striking ''subparagraph (B)'' in subsection (b)(3) (as redesignated by paragraphs (1) and (2)) and inserting ''paragraph (2)''.

SEC. 1012. ENHANCEMENT OF AUTHORITY RELATING TO USE FOR EXPERIMENTAL PURPOSES OF VESSELS STRICKEN FROM NAVAL VESSEL REGISTER.

(a) SALE OF MATERIAL AND EQUIPMENT STRIPPED FROM VESSEL.—Subsection (b)(1) of section 7306a of title 10, United States Code, is amended by adding at the end the following new sentence: ''Material and equipment stripped from the vessel may be sold by a contractor or a designated sales agent on behalf of the Navy.''.

(b) USE OF PROCEEDS.—(1) Subsection (b)(2) of such section is amended by striking ''scrapping services'' and all that follows through and inserting ''services needed for such stripping and for environmental remediation required for the use of the vessel for experimental purposes. Amounts received in excess of amounts needed for reimbursement of those costs shall be deposited into the account from which the stripping and environmental remediation expenses were incurred and shall be available for stripping and environmental remediation of other vessels to be used for experimental purposes.''.

(2) The amendment made by paragraph (1) shall not apply with respect to proceeds from the stripping of a vessel under any vessel stripping contract entered into before the date of the enactment of this Act.

(c) CLARIFICATION OF COVERED EXPERIMENTAL PURPOSES.—Such section is further amended by adding at the end the following new subsection:

''(c) USE FOR EXPERIMENTAL PURPOSES DEFINED.—In this section, the term 'use for experimental purposes' includes use of a vessel in a Navy sink exercise or for target purposes.''.

SEC. 1013. AUTHORIZATION FOR TRANSFER OF VESSELS STRICKEN FROM NAVAL VESSEL REGISTER FOR USE AS ARTIFICIAL REEFS.

(a) AUTHORITY.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7306a the following new section:

''§ 7306b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs

''(a) AUTHORITY TO MAKE TRANSFER.—The Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register to any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof for use as an artificial reef as provided in subsection (b).

''(b) VESSEL TO BE USED AS ARTIFICIAL REEF.—An agreement for the transfer of a vessel under subsection (a) shall require that—

''(1) the transferee use, site, construct, monitor, and manage the vessel only as an artificial reef in accordance with the requirements of the National Fishing Enhancement Act of 1984 (33 U.S.C. 2101 et seq.), except that the transferee also may use the artificial reef to enhance diving opportunities if that use does not have an adverse effect on fishery resources; and

''(2) the transferee shall obtain, and bear all of the responsibility for complying with, all applicable Federal, State, interstate, and local permits for siting, constructing, monitoring, and managing a vessel as an artificial reef.

''(c) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with a conveyance authorized by this section as the Secretary considers appropriate.

''(d) COST SHARING ON TRANSFERS.—The Secretary of the Navy may share with the recipient any of the costs associated with transferring a vessel under this section.

''(e) APPLICATION FOR MORE THAN ONE VESSEL.—A State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, may apply for more than one vessel under this section.

''(f) DEFINITION.—In this section, the term 'fishery resources' has the meaning given such term in section 3(14) of the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802(14)).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7306a the following new item:

''7306b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs.''.

SEC. 1014. PILOT PROGRAM FOR SEALIFT SHIP CONSTRUCTION.

(a) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary of the Navy may establish a pilot program, under which the Secretary of the Navy, subject to the availability of appropriations, may guarantee loans for—

(1) the construction in a United States shipyard of two qualified sealift ships that are to be documented under the laws of the United States for use in United States-flag commercial service; and

(2) the acquisition of facilities or equipment pertaining to the marine operations of those ships, which may include specialized loading equipment.

(b) CONDITIONS OF GUARANTEE.—A guarantee under this section is subject to the following conditions:

(1) MSP.—The owner of the ships for which guarantees are issued shall apply for an operating agreement with the Secretary of Transportation under subtitle B of this title.

(2) NDF; CHARTER.—If the Secretary of the Navy requests, the owner of the ships shall engage in negotiations on reasonable terms and conditions for—

(A) installation and maintenance of defense features for national defense purposes on one or both ships under section 2218 of title 10, United States Code; and

(B) a short-term charter to the United States Government of at least one ship for which a guarantee is issued, for a period of at least 60 days prior to entry into commercial service, for the purpose of demonstrating the military capabilities of the ships.

(c) PAYMENT OF COST.—The cost of a guarantee under this section shall be paid for with amounts made available in appropriations Acts.

(d) PERCENTAGE LIMITATION; TERM.—A guarantee under this section may apply—

(1) to up to 87.5 percent of the loan principal; and

(2) for a term ending up to 25 years after delivery of the second ship.

(e) AUTHORITIES, PROCEDURES, REQUIREMENTS, AND RESTRICTIONS.—The Secretary of the Navy, subject to the other provisions of this section—

(1) in implementing this section, may exercise authorities that are substantially the same as the authorities available to the Secretary of Transportation under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.) with respect to loan guarantees under that title;

(2) shall implement this section under procedures, requirements, and restrictions that are substantially the same as those under which loan guarantees are made under that title, including the regulations implementing that title; and

(3) may establish such additional requirements for loan guarantees under this section as the Secretary determines to be necessary to minimize the cost of such guarantees.

(f) INTERAGENCY AGREEMENT.—The Secretary of Transportation shall enter into an interagency agreement or other appropriate arrangement with the Secretary of the Navy to make available to the Department of the Navy such Maritime Administration personnel with expertise in vessel construction financing as are necessary to carry out the program under this section.

(g) DEFINITIONS.—In this section:

(1) COST.—The term ''cost'', with respect to a loan guarantee under this section, has the meaning given that term in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a).

(2) QUALIFIED SEALIFT SHIP.—The term ''qualified sealift ship'' means a roll-on, roll-off vessel that is—

(A) militarily useful for additional medium- to long-haul strategic sealift capacity;

(B) designed to carry at least 10,000 tons of cargo; and

(C) capable of operating commercially in the foreign commerce of the United States.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Navy to carry out this section $40,000,000.

Subtitle C—Reports

SEC. 1021. REPEAL AND MODIFICATION OF VARIOUS REPORTING REQUIREMENTS APPLICABLE TO THE DEPARTMENT OF DEFENSE.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113 is amended by striking subsection (m).

(2) Section 117(e) is amended by striking ''each month'' and all that follows through ''subsection (d)'' and inserting ''each quarter submit to the congressional defense committees a report in writing containing the results of the most recent joint readiness review under subsection (d)(1)(A)''.

(3) Section 127(d) is amended to read as follows:

''(d) ANNUAL REPORT.—Not later than December 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on expenditures during the preceding fiscal year under subsections (a) and (b).''.

(4) Section 127a is amended—

(A) in subsection (a)—

(i) by striking paragraph (3); and

(ii) by redesignating paragraph (4) as paragraph (3); and

(B) by striking subsection (d).

(5) Section 128 is amended by striking subsection (d).

(6) Section 129 is amended by striking subsection (f).

(7) Section 184 is amended by striking subsection (b).

(8) Section 226(a) is amended—

(A) by striking ''December 15'' and inserting ''January 15''; and

(B) by striking ''in the following year'' in paragraph (1) and inserting ''in that year''.

(9)(A) Section 228 is amended—

(i) in subsection (a)—

(I) by striking ''MONTHLY'' in the subsection heading and inserting ''QUARTERLY'';

(II) by striking ''monthly'' and inserting ''quarterly''; and

(III) by striking ''month'' and inserting ''fiscal-year quarter''; and

(ii) in subsection (c), by striking ''month'' each place it appears and inserting ''quarter''.

(B)(i) The heading of such section is amended to read as follows:

''§228. Quarterly reports on allocation of funds within operation and maintenance budget subactivities''.

(ii) The item relating to section 228 in the table of sections at the beginning of chapter 9 is amended to read as follows:

''228. Quarterly reports on allocation of funds within operation and maintenance budget subactivities.''.

(10) Section 401 is amended by striking subsection (d).

(11) Section 437 is amended—

(A) by striking the second sentence of subsection (b); and

(B) by striking subsection (c).

(12)(A) Section 484 is repealed.

(B) The table of sections at the beginning of such chapter is amended by striking the item relating to section 484.

(13)(A) Section 520c is amended—

(i) by striking subsection (b);

(ii) by striking ''(a) PROVISION OF MEALS AND REFRESHMENTS.''; and

(iii) by striking the heading for such section and inserting the following:

''§520c. Recruiting functions: provision of meals and refreshments''.

(B) The item relating to such section in the table of sections at the beginning of chapter 31 is amended to read as follow:

''520c. Recruiting functions: provision of meals and refreshments.''.

(14) Section 983(e)(1) is amended by striking ''and to Congress''.

(15) Section 1060 is amended by striking subsection (d).

(16) Section 1130 is amended—

(A) in subsection (a), by striking ''the other determinations necessary to comply with subsection (b)'' and inserting ''respond with a detailed description of the rationale supporting the determination''; and

(B) by striking subsection (b).

(17) Section 1557 is amended by striking subsection (e).

(18) Section 1563 is amended—

(A) in subsection (a), by striking ''the other determinations necessary to comply with subsection (b)'' and inserting ''respond with a detailed description of the rationale supporting the determination''; and

(B) by striking subsection (b).

(19) Section 2010 is amended by striking subsection (b).

(20) Section 2166 is amended—

(A) in subsection (e)(5), by inserting ''and to Congress'' after ''to the Secretary of Defense''; and

(B) by striking subsection (i).

(21) Section 2208(j)(2) is amended by striking ''and notifies Congress regarding the reasons for the waiver''.

(22) Section 2216(a) is amended—

(A) by striking ''QUARTERLY REPORTS.—(1) Not later than 15 days after the end of each calendar quarter'' and inserting ''ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year''; and

(B) by striking ''quarter'' in subparagraphs (A), (B), and (C) of paragraph (1) and inserting ''fiscal year''.

(23) Section 2224(e) is amended by inserting ''through 2007'' after ''Each year''.

(24) Section 2255(b)—

(A) by striking paragraph (2); and

(B) by striking ''(1)'' after ''(b) EXCEPTION.—''.

(25) Section 2281 is amended by striking subsection (d).

(26)(A) Section 2282 is repealed.

(B) The table of sections at the beginning of chapter 136 is amended by striking the item relating to section 2282.

(27) Section 2323 is amended—

(A) in subsection (d)—

(i) by striking ''Defense—'' and all that follows through ''the extent'' and inserting ''Defense to the extent'';

(ii) by striking ''; and'' and inserting a period; and

(iii) by striking paragraph (2); and

(B) by striking subsection (i).

(28) Section 2327(c)(1) is amended—

(A) in subparagraph (A), by striking ''after the date on which such head of an agency submits to Congress a report on the contract'' and inserting ''if in the best interests of the Government'';

(B) in subparagraph (B), by striking ''A report under subparagraph (A)'' and inserting ''The Secretary shall maintain records of each contract entered into by reason of subparagraph (A). Such records''; and

(C) by striking subparagraph (C).

(29) Section 2350a is amended—

(A) by striking subsection (f); and

(B) in subsection (g), by striking paragraph (3).

(30) Section 2350j is amended by striking subsections (e) and (g).

(31) Section 2367 is amended by striking subsection (d).

(32) Section 2371 is amended by striking subsection (h).

(33) Section 2374a is amended by striking subsection (e).

(34) Section 2410i(c) is amended by striking the last sentence.

(35) Section 2410m(c) is amended—

(A) by striking ''REPORTING REQUIREMENT.—Each year'' and inserting ''ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year'';

(B) by inserting ''at the end of such fiscal year'' in paragraph (1) before the period;

(C) by striking ''during the year preceding the year in which the report is submitted'' in paragraph (2) and inserting ''under this section during that fiscal year'';

(D) by striking ''in such preceding year'' in paragraph (3) and inserting ''under this section during that fiscal year''; and

(E) by striking ''in such preceding year'' in paragraph (4) and inserting ''under this section during that fiscal year''.

(36) Section 2433 is amended—

(A) in subsection (d)—

(i) in paragraphs (1) and (2), by striking '', or by at least 25 percent,''; and

(ii) in paragraph (3)—

(I) by striking ''or by at least 25 percent,'' both places it appears; and

(II) by inserting a comma after ''paragraph (1)''; and

(B) in subsection (e)—

(i) by striking paragraph (2);

(ii) by redesignating paragraph (3) as paragraph (2);

(iii) in paragraph (2), as so redesignated, by striking ''or if a'' in the first sentence and all that follows through ''paragraph (2),''; and

(iv) by designating the second sentence of such paragraph as paragraph (3) and in that paragraph—

(I) by inserting ''under paragraph (2)'' after ''The prohibition''; and

(II) by striking ''the date—'' and all that follows through ''subsection (d).'' and inserting ''the date on which Congress receives the Selected Acquisition Report under paragraph (1) with respect to that program.''.

(37) Section 2457 is amended by striking subsection (d).

(38) Section 2493 is amended by striking subsection (g).

(39) Section 2515 is amended by striking subsection (d).

(40) Section 2521 is amended by striking subsection (e).

(41) Section 2536 is amended—

(A) in subsection (b)(2)—

(i) by striking ''notify Congress'' in the first sentence and inserting ''maintain a record''; and

(ii) by striking the second sentence and inserting the following: ''The records maintained under the preceding sentence with respect to a waiver shall include a justification in suport of the decision to grant the waiver and shall be retrievable for any particular waiver or for waivers during any period of time.''; and

(B) by adding at the end the following new subsection:

''(d) The Secretary of Defense shall maintain an account of actions relating to the award of contracts to a prime contractor. The Secretary of Defense shall include in such accounts the reasons for exercising the awards and the work expected to be performed.''.

(42) Section 2541d is amended—

(A) by striking subsection (b); and

(B) in subsection (a), by striking ''(a)'' and all that follows through ''The Secretary of Defense'' and inserting ''The Secretary of Defense''.

(43) Section 2561 is amended by striking subsections (c), (d) and (f).

(44) Section 2563(c)(2) is amended by striking ''and notifies Congress regarding the reasons for the waiver''.

(45) Section 2645 is amended by striking subsections (d) and (g).

(46) Section 2667a(c)(2) is amended by striking ''45 days'' and inserting ''14 days''.

(47) Section 2676(d) is amended by striking ''21 days'' and inserting ''14 days''.

(48) Section 2680 is amended by striking subsection (e).

(49) Section 2696 is amended by striking subsections (c) and (d).

(50) Section 2703(c)(2) is amended—

(A) by striking subparagraph (B);

(B) by striking ''unless the Secretary—'' and all that follows through ''determines that'' and inserting ''unless the Secretary determines that''; and

(C) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and realigning such subparagraphs (as so redesignated) two ems from the left margin.

(51)(A) Section 2723 is repealed.

(B) The table of sections at the beginning of chapter 161 is amended by striking the item relating to section 2723.

(52) Section 2803(b) is amended by striking ''21–day period'' and inserting ''seven-day period''.

(53) Section 2804(b) is amended by striking ''21–day period'' and inserting ''14–day period''.

(54) Section 2805(b) is amended—

(A) in paragraph (1), by striking ''$750,000'' and inserting ''$1,000,000''; and

(B) in paragraph (2), by striking ''by striking ''21–day period'' and inserting ''seven-day period''''.

(55) Section 2807 is amended—

(A) in subsection (b)—

(i) by striking ''$500,000'' and inserting ''$1,000,000''; and

(ii) by striking ''not less than 21 days''; and

(B) in subsection (c)(2), by striking ''21 days'' and inserting ''14 days''.

(56) Section 2809(f)(2) is amended by striking ''21 calendar days'' and inserting ''14 days''.

(57) Section 2812(c)(1)(B) is amended by striking ''21 days'' and inserting ''14 days''.

(58) Section 2813(c) is amended by striking ''30–day period'' and inserting ''21–day period''.

(59) Section 2825 is amended—

(A) by striking ''21 days'' in the last sentence of subsection (b)(1)(B) and inserting ''14 days''; and

(B) by striking ''21 days'' in subsection (c)(1)(D) and inserting ''14 days''.

(60) Section 2826 is amended—

(A) by striking ''(a) LOCAL COMPARABILITY.—''; and

(B) by striking subsection (b).

(61) Section 2827(b)(2) is amended by striking ''21 days'' and inserting ''14 days''.

(62) Section 2836(f)(2) is amended by striking ''21 calendar days'' and inserting ''14 days''.

(63) Section 2837(c)(2) is amended by striking ''21–day period'' and inserting ''14–day period''.

(64) Section 2854(b) is amended by striking ''21–day period'' and inserting ''seven-day period''.

(65) Section 2854a(c)(2) is amended by striking ''21 calendar days'' and inserting ''14 days''.

(66) Section 2865 is amended—

(A) in subsection (e)—

(i) by striking ''(1)'' before ''The Secretary''; and

(ii) by striking paragraph (2); and

(B) by striking subsection (f).

(67) Section 2866(c) is amended—

(A) by striking ''(1)'' before ''The Secretary''; and

(B) by striking paragraph (2).

(68) Section 2867(c) is amended by striking ''21–day period'' and inserting ''14–day period''.

(69) Section 2875(e) is amended by striking ''30–day period'' and inserting ''14–day period''.

(70) Section 2883(f) is amended by striking ''30–day period'' and inserting ''14–day period''.

(71) Section 2902(g) is amended—

(A) by striking paragraph (2); and

(B) by striking ''(1)'' after ''(g)''.

(72) Section 4342(h) is amended by striking ''Secretary of the Army'' and inserting ''Superintendent''.

(73) Section 4357(c) is amended is amended by striking ''the expiration of 30 days following''.

(74) Section 6954(f) is amended by striking ''Secretary of the Navy'' and inserting ''Superintendent of the Naval Academy''.

(75) Section 6975(c) is amended is amended by striking ''the expiration of 30 days following''.

(76) Section 7049(c) is amended—

(A) by striking ''CERTIFICATION'' in the subsection heading and inserting ''DETERMINATION''; and

(B) by striking '', and certifies to'' and all that follows through ''House of Representatives,''.

(77) Section 9342(h) is amended by striking ''Secretary of the Air Force'' and inserting ''Superintendent''.

(78) Section 9356(c) is amended is amended by striking ''the expiration of 30 days following''.

(79) Section 12302—

(A) in subsection (b), by striking the last sentence; and

(B) by striking subsection (d).

(80)(A) Section 16137 is repealed.

(B) The table of sections at the beginning of chapter 1606 is amended by striking the item relating to section 16137.

(b) FOREIGN ASSISTANCE ACT OF 1961.—Section 656 of the Foreign Assistance Act of 1961 (22 U.S.C. 2416) is repealed.

(c) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991.—Part B of title XXIX of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2687 note) is amended as follows:

(1) Section 2921 is amended—

(A) in subsection (f)(1), by striking ''30 days'' and inserting ''14 days''; and

(B) in subsection (g), by striking ''30 days'' in paragraphs (1) and (2) and inserting ''14 days''.

(2) Section 2926 is amended by striking subsection (g).

(d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993.—The National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190) is amended as follows:

(1) Section 734 (10 U.S.C. 1074 note) is amended by striking subsection (c).

(2) Section 2868 (10 U.S.C. 2802 note) is amended by striking ''The Secretary of Defense'' and all that follows through ''is to be authorized'' and inserting ''Not later than 30 days after the date on which a decision is made selecting the site or sites for the permanent basing of a new weapon system, the Secretary of Defense shall submit to Congress''.

(e) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—The National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended as follows:

(1) Section 324 (10 U.S.C. 2701 note) is amended—

(A) by striking ''(a) SENSE OF CONGRESS.—''; and

(B) by striking subsection (b).

(2) Section 1082(b)(1) (10 U.S.C. 113 note) is amended by striking ''the Secretary of Defense—'' and all that follows and inserting ''the Secretary of Defense determines that it is in the national security interests of the United States for the military departments to do so.''.

(f) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995.—Section 721 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1074 note) is amended by striking subsection (h).

(g) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997.—The National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) is amended as follows:

(1) Section 324 (10 U.S.C. 2706 note) is amended by striking subsection (c).

(2) Section 1065(b) (10 U.S.C. 113 note) is amended—

(1) by striking ''(1)'' before ''Notwithstanding''; and

(2) by striking paragraph (2).

(h) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997.—Section 8009 of the Department of Defense Appropriations Act, 1997 (as contained in section 101(b) of Public Law 104–208; 110 Stat. 3009-89), is amended by striking '', unless the congressional defense committees have been notified at least thirty days in advance of the proposed contract award''.

(i) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998.— Section 349 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2702 note) is amended by striking subsection (e).

(j) STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999.—The Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) is amended as follows:

(1) Section 745(e) (10 U.S.C. 1071 note) is amended—

(A) by striking ''(1)'' before ''The Secretary of Defense''; and

(B) by striking paragraph (2).

(2) Section 1223 (22 U.S.C. 1928 note) is repealed.

(k) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000.—The National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is amended as follows:

(1) Section 212 (10 U.S.C. 2501 note) is amended by striking subsection (c).

(2) Section 724 (10 U.S.C. 1092 note) is amended by striking subsection (e).

(4) Section 1039 (10 U.S.C. 113 note) is amended by striking subsection (b).

(l) MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2001.—Section 125 of the Military Construction Appropriations Act, 2001 (division A of Public Law 106–246; 114 Stat. 517), is repealed.

(m) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2001.—Section 8019 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 678; 10 U.S.C. 2687 note), is amended by striking ''of Congress:'' and all that follows through ''this provision'' and inserting ''of Congress''.

(n) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—Section 1006 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–247; 10 U.S.C. 2226 note), is amended by striking subsection (c).

(o) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002.—Section 8009 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2249; 10 U.S.C. 401 note), is amended by striking '', and these obligations shall be reported to the Congress''.

SEC. 1022. REPORT ON OPERATION IRAQI FREEDOM.

(a) REPORT REQUIRED.—Not later than June 15, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on Operation Iraqi Freedom. The Secretary shall submit to those committees a preliminary report on the conduct of those hostilities not later than January 15, 2004.

(b) DISCUSSION OF ACCOMPLISHMENTS AND SHORTCOMINGS.—The report (and the preliminary report, to the extent feasible) shall contain a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters:

(1) The military objectives of the multinational coalition.

(2) The military strategy of the multinational coalition to achieve those military objectives and how the military strategy contributed to the achievement of those objectives.

(3) The deployment of United States forces and the transportation of supplies to the theater of operations, including an assessment of airlift, sealift, afloat prepositioning ships, and Maritime Prepositioning Squadron ships.

(4) The conduct of military operations.

(5) The use of special operations forces, including operational and intelligence uses classified under special access procedures.

(6) The use and performance of United States military equipment, weapon systems, and munitions (including items classified under special access procedures) and an analysis of—

(A) any equipment or capabilities that were in research and development and if available could have been used in the theater of operations; and

(B) any equipment or capabilities that were available and could have been used but were not introduced into the theater of operations.

(7) The scope of logistics support, including support from other nations.

(8) The acquisition policies and processes used to support the forces in the theater of operations.

(9) The personnel management actions taken to support the forces in the theater of operations.

(10) The effectiveness of reserve component forces, including a discussion of each of the following matters:

(A) The readiness and activation of such forces.

(B) The decisionmaking process regarding both activation of reserve component forces and deployment of those forces to the theater of operations.

(C) The post-activation training received by such forces.

(D) The integration of forces and equipment of reserve component forces into the active component forces.

(E) The use and performance of the reserve component forces in operations in the theater of operations.

(F) The use and performance of such forces at duty stations outside the theater of operations.

(11) The role of the law of armed conflict in the planning and execution of military operations by United States forces and the other coalition forces and the effects on operations of Iraqi compliance or noncompliance with the law of armed conflict, including a discussion regarding each of the following matters:

(A) Use of Iraqi civilians as human shields.

(B) Collateral damage and civilian casualties.

(C) Treatment of prisoners of war.

(D) Repatriation of prisoners of war.

(E) Use of ruses and acts of perfidy.

(F) War crimes.

(G) Environmental terrorism.

(H) Conduct of neutral nations.

(12) The actions taken by the coalition forces in anticipation of, and in response to, Iraqi acts of environmental terrorism.

(13) The actions taken by the coalition forces in anticipation of possible Iraqi use of weapons of mass destruction.

(14) Evidence of Iraqi weapons of mass destruction programs and Iraqi preparations for the use of such weapons.

(15) The contributions of United States and coalition intelligence and counterintelligence systems and personnel, including contributions regarding bomb damage assessments and particularly including United States tactical intelligence and related activities (TIARA) programs and the Joint Military Intelligence Program (JMIP).

(16) Command, control, communications, and operational security of the coalition forces as a whole, and command, control, communications, and operational security of the United States forces.

(17) The rules of engagement for the coalition forces.

(18) The actions taken to reduce the casualties among coalition forces caused by the fire of such forces.

(19) The role of supporting combatant commands and Defense Agencies of the Department of Defense.

(20) The policies and procedures relating to the media, including the use of embedded media.

(21) The assignment of roles and missions to the United States forces and other coalition forces and the performance of those forces in carrying out their assigned roles and missions.

(22) The preparedness, including doctrine and training, of the United States forces.

(23) The acquisition of foreign military technology from Iraq, and any compromise of military technology of the United States or other countries in the multinational coalition.

(24) The problems posed by Iraqi possession and use of equipment produced in the United States and other coalition nations.

(25) The use of deception by Iraqi forces and by coalition forces.

(26) The military criteria used to determine when to progress from one phase of military operations to another phase of military operations.

(27) The role, if any, of the Status of Resources and Training System (SORTS) in determining which units would be employed during the operation.

(28) The role of the Coast Guard.

(29) The direct and indirect cost of military operations, including an assessment of the total incremental expenditures made by the Department of Defense as a result of Operation Iraqi Freedom.

(c) CASUALTY STATISTICS.—The report (and the preliminary report, to the extent feasible) shall also contain—

(1) the number of military and civilian casualties sustained by coalition nations; and

(2) estimates of such casualties sustained by Iraq and by nations not directly participating in hostilities during Operation Iraqi Freedom.

(d) CLASSIFICATION OF REPORTS.—The Secretary of Defense shall submit both the report and the preliminary report in a classified form and an unclassified form.

SEC. 1023. REPORT ON DEPARTMENT OF DEFENSE POST-CONFLICT ACTIVITIES IN IRAQ

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the activities of the Department of Defense in post-conflict Iraq.

(b) REPORT ELEMENTS.—The report shall discuss the range of infrastructure reconstruction, civil administration, humanitarian assistance, interim governance, and political development activities undertaken in Iraq by officials of the Department and by those civilians reporting to the Secretary of Defense and the missions undertaken in Iraq by United States military forces during the post-conflict period. In particular, the report shall include a discussion of the following:

(1) The evolution of the organizational structure of the civilian groups reporting to the Secretary, including the Office of Reconstruction and Humanitarian Assistance, on issues of Iraqi post-conflict administration and reconstruction and the factors influencing that evolution.

(2) The relationship of the Department of Defense with other United States departments and agencies involved in post-conflict administration and reconstruction planning and execution in Iraq.

(3) The relationship of Department of Defense entities, including the Office of Reconstruction and Humanitarian Assistance, with intergovernmental and nongovernmental organizations contributing to the reconstruction and governance efforts.

(4) Progress made to the date of the report in—

(A) rebuilding Iraqi infrastructure;

(B) providing for the humanitarian needs of the Iraqi people;

(C) reconstituting the Iraqi governmental bureaucracy and its provision of services; and

(D) developing mechanisms of fully transitioning Iraq to representative self-government.

(5) Progress made to the date of the report by Department of Defense civilians and military personnel in accounting for any Iraqi weapons of mass destruction and associated weapons capabilities.

(6) Progress made to the date of the report by United States military personnel in providing security in Iraq and in transferring security functions to a reconstituted Iraqi police force and military.

(7) The Secretary's assessment of the scope of the ongoing needed commitment of United States military forces and of the remaining tasks to be completed by Department of Defense civilian personnel in the governance and reconstruction areas, including an estimate of the total expenditures the Department of Defense expects to make for activities in post-conflict Iraq.

SEC. 1024. REPORT ON DEVELOPMENT OF MECHANISMS TO BETTER CONNECT DEPARTMENT OF DEFENSE SPACE CAPABILITIES TO THE WAR FIGHTER.

Not later than March 15, 2004, the Secretary of Defense shall submit to the congressional defense committees a report on development and implementation of systematic mechanisms to provide for integrating into activities of the United States Strategic Command planning and requirements for connecting space capabilities of that command with the war fighter.

Subtitle D—Procurement of Defense Biomedical Countermeasures

SEC. 1031. RESEARCH AND DEVELOPMENT OF DEFENSE BIOMEDICAL COUNTERMEASURES.

(a) IN GENERAL.—The Secretary of Defense (in this section referred to as the ''Secretary'') shall carry out a program to accelerate the research, development and procurement of biomedical countermeasures, including but not limited to therapeutics and vaccines, for the protection of the Armed Forces from attack by one or more biological, chemical, radiological, or nuclear agents.

(b) INTERAGENCY COOPERATION.—(1) In carrying out the program under subsection (a), the Secretary may enter into interagency agreements and other collaborative undertakings with other Federal agencies. Under such agreements and undertakings, the participating agencies are authorized to provide funds and receive funds from other participating agencies.

(2) The Secretary, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall ensure that the activities of the Department of Defense in carrying out the program are coordinated with, complement, and do not unnecessarily duplicate activities of the Department of Health and Human Services or the Department of Homeland Security.

(c) EXPEDITED PROCUREMENT AUTHORITY.—(1)(A) For any procurement by the Secretary, of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasures research or development, the amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as applicable pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), shall be deemed to be $25,000,000 in the administration, with respect to such procurement, of sections 302A(b) (41 U.S.C. 252a(b)) and 303(g)(1)(A) (42 U.S.C. 253(g)(1)(A)) of the Federal Property and Administrative Services Act of 1949 and the regulations implementing those sections.

(B) The Secretary shall institute appropriate internal controls for use of the authority under subparagraph (A), including requirements for documenting the justification for each use of such authority.

(2)(A) For a procurement described in paragraph (1), the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement.

(B) The Secretary shall institute appropriate internal controls for each use of the authority under subparagraph (A) for a procurement greater than $2,500.

(d) FACILITIES AUTHORITY.—(1) The Secretary may acquire, lease, construct, improve, renovate, remodel, repair, operate, and maintain laboratories, other research facilities and equipment, and other real or personal property that the Secretary determines necessary for carrying out the program under this section. The authority under this paragraph is in addition to any other authority under law.

(2) The Secretary may exercise the authorities of paragraph (1) as part of an intergency cooperation activity under subsection (b).

(e) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—The authority provided by section 1091 of title 10, United States Code, for personal services contracts to carry out health care responsibilities in medical treatment facilities of the

Department of Defense shall also be available, subject to the same terms and conditions, for personal services contracts to carry out research and development activities under this section. The number of individuals whose personal services are obtained under this subsection may not exceed 30 at any time.

(f) STREAMLINED PERSONNEL AUTHORITY.—(1) Without regard to any provision of title 5, United States Code, governing appointments in the competitive service, and without regard to any provision of chapter 51, or subchapter III of chapter 43, of such title relating to classification and General Schedule pay rates, the Secretary may appoint professional and technical employees, not to exceed 30 such employees at any time, to positions in the Department of Defense to carry out research and development under the program under this section. The authority under this paragraph is in addition to any other authority under law.

(2) The Secretary may use the authority under paragraph (1) only upon a determination by the Secretary that use of such authority is necessary to accelerate the research and development under the program.

(3) The Secretary shall institute appropriate internal controls for each use of the authority under paragraph (1).

SEC. 1032. PROCUREMENT OF DEFENSE BIOMEDICAL COUNTERMEASURES.

(a) DETERMINATION OF MATERIAL THREATS.—(1) The Secretary of Defense (in this section referred to as the ''Secretary''), in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security shall on an ongoing basis—

(A) assess current and emerging threats of use of biological, chemical, radiological, and nuclear agents; and

(B) identify, on the basis of such assessment, those agents that present a material risk of use against the Armed Forces.

(2) The Secretary, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall on an ongoing basis—

(A) assess the potential consequences to the health of members of the Armed Forces of use against the Armed Forces of the agents identified under paragraph (1)(B); and

(B) identify, on the basis of such assessment, those agents for which countermeasures are necessary to protect the health of members of the Armed Forces.

(b) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES.—The Secretary, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall on an ongoing basis assess the availability and appropriateness of specific countermeasures to address specific threats identified under subsection (a).

(c) SECRETARY'S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR PROCUREMENT.—(1) The Secretary, in accordance with paragraph (2), shall on an ongoing basis identify specific countermeasures that the Secretary determines to be appropriate for procurement for the Department of Defense stockpile of biomedical countermeasures.

(2) The Secretary may not identify a specific countermeasure under paragraph (1) unless the Secretary determines that—

(A) the countermeasure is a qualified countermeasure; and

(B) it is reasonable to expect that producing and delivering, within 5 years, the quantity of that countermeasure required to meet the needs of the Department (as determined by the Secretary) is feasible.

(d) DEFINITIONS.—In this section:

(1) The term ''qualified countermeasure'' means a biomedical countermeasure—

(A) that is approved under section 505(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or that is approved under section 515 or cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e and 360) for use as such a countermeasure to a biological, chemical, radiological, or nuclear agent identified as a material threat under subsection (a); or

(B) with respect to which the Secretary, in consultation with the Secretary of Health and Human Services, makes a determination that sufficient and satisfactory clinical experience or research data (including data, if available, from preclinical and clinical trials) exists to support a reasonable conclusion that the product will, not later than 5 years after the date on which the Secretary identifies the product under subsection (c)(1), qualify for such approval or licensing for use as such a countermeasure.

(2) The term ''biomedical countermeasure'' means a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))), or biological product (as defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)) that is—

(A) used to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a military health emergency affecting the Armed Forces; or

(B) used to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug or biological product that is used as described in subparagraph (A).

(e) FUNDING.—(1) Of the amount authorized to be appropriated for the Department of Defense and available within the transfer authority established under section 1001 of this Act for fiscal year 2004 and for each fiscal year thereafter, such sums are authorized as may be necessary for the costs incurred by the Secretary in the procurement of countermeasures under this section, subject to paragraph (2).

(2) Amounts authorized to be appropriated under paragraph (1) shall not be available to pay—

(A) costs for the purchase of vaccines under procurement contracts entered into before January 1, 2003;

(B) costs under new contracts, or costs of new obligations under contracts previously entered into, for procurement of a countermeasure after the date of a determination under subsection (c)(2)(D) that the countermeasure does have a significant commercial market other than as a biomedical countermeasure; or

(C) administrative costs.

SEC. 1033. AUTHORIZATION FOR USE OF MEDICAL PRODUCTS IN EMERGENCIES.

(a) USE OF MEDICAL PRODUCTS AUTHORIZED.—During the period in which a declaration of emergency under subsection (b) is in effect, the Secretary of Defense, in accordance with this section, may authorize the use on members of the Armed Forces of a drug or device intended solely for use in an actual or potential emergency.

(b) DECLARATION OF EMERGENCY.—(1) A declaration of emergency referred to in subsection (a) is a declaration by the Secretary of Defense that there exists a military emergency, or a significant potential for a military emergency, involving a heightened risk to the Armed Forces of attack by one or more biological, chemical, radiological, or nuclear agents.

(2) Subject to paragraph (3), the period during which a declaration of emergency under this subsection is in effect begins upon the making of the declaration and ends upon the first to occur of the following events:

(A) The making of a determination by the Secretary that the military emergency, or the significant potential for a military emergency, has ceased to exist.

(B) The expiration of the one-year period beginning on the date on which the declaration of emergency is made.

(3) Before the expiration of the period during which a declaration of emergency is in effect, the Secretary may declare one or more extensions of that declaration of emergency. In such a case, the date on which the most recent extension was declared shall be treated for purposes of subsection (2)(B) as the date on which the declaration of emergency is made.

(c) CRITERIA FOR ISSUANCE OF AUTHORIZATION.—The Secretary, in consultation with the Secretary of Health and Human Services, may use the authority under subsection (a) with respect to a biomedical countermeasure only if the Secretary make a determination that—

(1) an agent to which a declaration of emergency under subsection (b) relates can cause a serious or life-threatening disease or condition;

(2) based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

(A) such countermeasure may be effective in detecting, diagnosing, treating, or preventing such disease or condition; or

(B) the known and potential benefits of such countermeasure, when used to detect, diagnose, treat, or prevent such disease or condition, outweigh the known and potential risks of such countermeasure;

(3) no adequate, approved, and available alternative exists to such countermeasure for detecting, diagnosing, treating, or preventing such disease or condition; and

(4) such other criteria as the Secretary may by regulation prescribe are satisfied.

(d) SCOPE OF AUTHORIZATION.—For each use of the authority under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall—

(1) specify each disease or condition that the biological countermeasure may be used to detect, diagnose, treat, or prevent; and

(2) set forth each determination under subsection (c) with respect to that countermeasure and the basis for each such determination.

(e) CONDITION.—In carrying out this section, the Secretary shall ensure compliance with section 1107 of title 10, United States Code, and section 731(a)(3) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2071; 10 U.S.C. 1107 note).

Subtitle E—Other Matters

SEC. 1041. CODIFICATION AND REVISION OF DEFENSE COUNTERINTELLIGENCE POLYGRAPH PROGRAM AUTHORITY.

(a) CODIFICATION.—(1) Chapter 21 of title 10, United States Code, is amended by inserting after section 425 the following new section:

''§ 426. Counterintelligence polygraph program

''(a) AUTHORITY FOR PROGRAM.—The Secretary of Defense may carry out a program for the administration of counterintelligence polygraph examinations to persons described in subsection (b). The program shall be based on Department of Defense Directive 5210.48, dated December 24, 1984.

''(b) PERSONS COVERED.—Except as provided in subsection (c), the following persons whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.4(a) of Executive Order 12958 (or a successor Executive order) are subject to this section:

''(1) Military and civilian personnel of the Department of Defense.

''(2) Personnel of defense contractors.

''(3) A person assigned or detailed to the Department of Defense.

''(4) An applicant for a position in the Department of Defense.

''(c) EXCEPTIONS FROM COVERAGE FOR CERTAIN INTELLIGENCE AGENCIES AND FUNCTIONS.—This section does not apply to the following persons:

''(1) A person assigned or detailed to the Central Intelligence Agency or to an expert or consultant under a contract with the Central Intelligence Agency.

''(2) A person who is—

''(A) employed by or assigned or detailed to the National Security Agency;

''(B) an expert or consultant under contract to the National Security Agency;

''(C) an employee of a contractor of the National Security Agency; or

''(D) a person applying for a position in the National Security Agency.

''(3) A person assigned to a space where sensitive cryptographic information is produced, processed, or stored.

''(4) A person employed by, or assigned or detailed to, an office within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs or a contractor of such an office.

''(d) OVERSIGHT.—(1) The Secretary shall establish a process to monitor responsible and effective application of polygraphs within the Department of Defense.

''(2) The Secretary shall make information on the use of polygraphs within the Department of Defense available to the congressional defense committees.

''(e) POLYGRAPH RESEARCH PROGRAM.—The Secretary of Defense shall carry out a continuing research program to support the polygraph activities of the Department of Defense. The program shall include—

''(1) an on-going evaluation of the validity of polygraph techniques used by the Department;

''(2) research on polygraph countermeasures and anti-countermeasures; and

''(3) developmental research on polygraph techniques, instrumentation, and analytic methods.''.

(2) The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

''426. Counterintelligence polygraph program.''.

(b) CONFORMING REPEAL.—Section 1121 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 113 note), is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2003.

SEC. 1042. CODIFICATION AND REVISION OF LIMITATION ON MODIFICATION OF MAJOR ITEMS OF EQUIPMENT SCHEDULED FOR RETIREMENT OR DISPOSAL.

(a) IN GENERAL.—(1) Chapter 134 of title 10, United States Code, is amended by inserting after section 2244 the following new section:

''§ 2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications

''(a) PROHIBITION.—Except as otherwise provided in this section, the Secretary of a military department may not carry out a significant modification of an aircraft, weapon, vessel, or other item of equipment that the Secretary plans to retire or otherwise dispose of within five years after the date on which the modification, if carried out, would be completed.

''(b) SIGNIFICANT MODIFICATIONS DEFINED.—For purposes of this section, a significant modification is any modification for which the cost is in an amount equal to or greater than $1,000,000.

''(c) EXCEPTION FOR SAFETY MODIFICATIONS.—The prohibition in subsection (a) does not apply to a safety modification.

''(d) WAIVER AUTHORITY.—The Secretary concerned may waive the prohibition in subsection (a) in the case of any modification otherwise subject to that subsection if the Secretary determines that carrying out the modification is in the national security interest of the United States. Whenever the Secretary issues such a waiver, the Secretary shall notify the congressional defense committees in writing.''.

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2244 the following new item:

''2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications.''.

(b) CONFORMING REPEAL.—Section 8053 of the Department of Defense Appropriations Act, 1998 (10 U.S.C. 2241 note), is repealed.

SEC. 1043. ADDITIONAL DEFINITIONS FOR PURPOSES OF TITLE 10, UNITED STATES CODE.

(a) GENERAL DEFINITIONS.—Section 101(a) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

''(16) The term 'congressional defense committees' means—

''(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

''(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

''(17) The term 'base closure law' means the following:

''(A) Section 2687 of this title.

''(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

''(C) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(b) REFERENCES TO CONGRESSIONAL DEFENSE COMMITTEES.—Title 10, United States Code, is further amended as follows:

(1) Section 135(e) is amended—

(A) by striking ''(1)'';

(B) by striking ''each congressional committee specified in paragraph (2)'' and inserting ''each of the congressional defense committees''; and

(C) by striking paragraph (2).

(2) Section 153(c) is amended—

(A) by striking ''committees of Congress named in paragraph (2)'' and inserting ''congressional defense committees'';

(B) by striking paragraph (2); and

(C) by designating the second sentence of paragraph (1) as paragraph (2) and in that paragraph (as so designated) by striking ''The report'' and inserting ''Each report under paragraph (1)''.

(3) Section 181(d)(2) is amended—

(A) by striking ''subsection:'' and all that follows through ''oversight'' and inserting ''subsection, the term 'oversight''; and

(B) by striking subparagraph (B).

(4) Section 224 is amended by striking subsection (f).

(5) Section 228(e) is amended—

(A) by striking ''DEFINITIONS'' and all that follows through ''(1) The term'' and inserting ''O&M BUDGET ACTIVITY DEFINED.—In this section, the term''; and

(B) by striking paragraph (2).

(6) Section 229 is amended by striking subsection (f).

(7) Section 1107(f)(4) is amended by striking subparagraph (C).

(8) Section 2216(j) is amended by striking paragraph (3).

(9) Section 2218(l) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

(10) Section 2306b(l) is amended—

(A) by striking paragraph (9); and

(B) by redesignating paragraph (10) as paragraph (9).

(11) Section 2308(e)(2) is amended—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(12) Section 2366(e) is amended—

(A) by striking paragraph (7); and

(B) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(13) Section 2399(h) is amended—

(A) by striking ''DEFINITIONS.—'' and all that follows through ''(1) The term'' and inserting ''OPERATIONAL TEST AND EVALUATION DEFINED.—In this section, the term'';

(B) by striking paragraph (2);

(C) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(D) by realigning those paragraphs (as so redesignated) so as to be indented two ems from the left margin.

(14) Section 2667(h) is amended by striking paragraph (1).

(15) Section 2688(e)(1) is amended by striking ''the Committee on'' the first place it appears and all that follows through ''House of Representatives'' and inserting ''the congressional defense committees''.

(16) Section 2801(c)(4) is amended by striking ''the Committee on'' the first place it appears and all that follows through ''House of Representatives'' and inserting ''the congressional defense committees''.

(c) REFERENCES TO BASE CLOSURE LAWS.—Title 10, United States Code, is further amended as follows:

(1) Section 2306c(h) is amended by striking ''ADDITIONAL'' and all that follows through ''(2) The term'' and inserting ''MILITARY INSTALLATION DEFINED.—In this section, the term''.

(2) Section 2490a(f) is amended—

(A) by striking ''DEFINITIONS.—'' and all that follows through ''(1) The term'' and inserting ''NONAPPROPRIATED FUND INSTRUMENTALITY DEFINED.—In this section, the term''; and

(B) by striking paragraph (2).

(3) Section 2667(h), as amended by subsection (b)(13), is further amended by striking ''section:'' and all that follows through ''(3) The term'' and inserting ''section, the term''.

(4) Section 2696(e) is amended—

(A) by striking paragraphs (1), (2), (3), and (4) and inserting the following:

''(1) A base closure law.''; and

(B) by redesignating paragraph (6) as paragraph (2).

(4) Section 2705 is amended by striking subsection (h).

(5) Section 2871 is amended by striking paragraph (2).

SEC. 1044. INCLUSION OF ANNUAL MILITARY CONSTRUCTION AUTHORIZATION REQUEST IN ANNUAL DEFENSE AUTHORIZATION REQUEST.

(a) INCLUSION OF MILITARY CONSTRUCTION REQUEST.—Section 113a(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3) Authority to carry out military construction projects, as required by section 2802 of this title.''.

(b) REPEAL OF SEPARATE TRANSMISSION OF REQUEST.—(1) Section 2859 of such title is repealed.

(2) The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2859.

SEC. 1045. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, are amended by striking ''2701'' in the item relating to chapter 160 and inserting ''2700''.

(2) Section 101(a)(9)(D) is amended by striking ''Transportation'' and inserting ''Homeland Security''.

(3) Section 2002(a)(2) is amended by striking ''Foreign Service Institute'' and inserting ''George P. Schultz National Foreign Affairs Training Center''.

(4)(A) Section 2248 is repealed.

(B) The table of sections at the beginning of chapter 134 is amended by striking the item relating to section 2248.

(5) Section 2305a(c) is amended by striking ''the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.)'' and inserting ''chapter 11 of title 40''.

(6) Section 2432(h)(1) is amended by inserting ''program'' in the first sentence after ''for such''.

(7) Section 7503(d) is amended by inserting ''such'' before ''title III.''

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 323(a) is amended by striking ''1 year'' in paragraphs (1) and (2) and inserting ''one year''.

(2) Section 402(b) is amended—

(A) by striking paragraph (1); and

(B) in paragraph (2), by striking ''On and after January 1, 2002, the'' and inserting ''The''.

(c) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATON ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) is amended as follows:

(1) Section 1308(c) (22 U.S.C. 5959) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by redesignating the second paragraph (6) as paragraph (7).

(2) Section 814 (10 U.S.C. 1412 note) is amended in subsection (d)(1) by striking ''the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106)'' and inserting ''subtitle III of title 40, United States Code''.

(d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is amended by striking the second period at the end.

(e) STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999.—Section 819 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2089) is amended by striking ''section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)),'' and inserting ''section 503 of title 40, United States Code,''.

(f) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997.—Section 1084(e) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2675) is amended by striking ''98–515'' and inserting ''98–525''. The amendment made by the preceding sentence shall take effect as if included in Public Law 104–201.

(g) FEDERAL ACQUISITION STREAMLINING ACT OF 1994.—Subsection (d) of section 1004 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat, 3253) is amended by striking ''under—'' and all that follows through the end of paragraph (2) and inserting ''under chapter 11 of title 40, United States Code.''.

(h) ARMED FORCES RETIREMENT HOME ACT OF 1991.—Section 1520(b)(1)(C) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 420(b)(1)(C)) is amended by inserting ''Armed Forces'' before ''Retirement Home Trust Fund''.

SEC. 1046. AUTHORITY TO PROVIDE LIVING QUARTERS FOR CERTAIN STUDENTS IN COOPERATIVE AND SUMMER EDUCATION PROGRAMS OF THE NATIONAL SECURITY AGENCY.

Section 2195 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) The Director of the National Security Agency may provide a qualifying employee of a defense laboratory of that Agency with living quarters at no charge, or at a rate or charge prescribed by the Director by regulation, without regard to section 5911(c) of title 5.

''(2) In this subsection, the term 'qualifying employee' means a student who is employed at the National Security Agency under—

''(A) a Student Educational Employment Program of the Agency conducted under this section or any other provision of law; or

''(B) a similar cooperative or summer education program of the Agency that meets the criteria for Federal cooperative or summer education programs prescribed by the Office of Personnel Management.''.

SEC. 1047. USE OF DRUG INTERDICTION AND COUNTER-DRUG FUNDS TO SUPPORT ACTIVITIES OF THE GOVERNMENT OF COLOMBIA.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—During fiscal years 2004 and 2005, the Secretary of Defense may use funds made available to the Department of Defense for drug interdiction and counter-drug activities to provide assistance to the Government of Colombia—

(1) to support a unified campaign against narcotics trafficking in Colombia;

(2) to support a unified campaign against activities by designated terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC); and

(3) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) RELATION TO OTHER ASSISTANCE AUTHORITY.—The authority provided by subsection (a) is in addition to other provisions of law authorizing the provision of assistance to the Government of Colombia.

SEC. 1048. AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.

(a) AUTHORITY.—A joint task force of the Department of Defense that provides support to law enforcement agencies conducting counter-drug activities may also provide, consistent with all applicable laws and regulations, support to law enforcement agencies conducting counter-terrorism activities.

(b) CONDITIONS.—Any support provided under subsection (a) may only be provided in the geographic area of responsibility of the joint task force.

SEC. 1049. USE OF NATIONAL DRIVER REGISTER FOR PERSONNEL SECURITY INVESTIGATIONS AND DETERMINATIONS.

Section 30305(b) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (9) through (11) as paragraphs (10) through (12), respectively; and

(2) by inserting after paragraph (8) the following new paragraph:

''(9) An individual who is being investigated for—

''(A) eligibility for access to a particular level of classified information for purposes of Executive Order 12968, or any successor Executive order; or

''(B) Federal employment under authority of Executive Order 10450, or any successor Executive order,

may request the chief driver licensing official of a State to provide information about the individual pursuant to subsection (a) of this section to a Federal department or agency that is authorized to investigate the individual for the purpose of assisting in the determination of the eligibility of the individual for access to classified information or for Federal employment. A Federal department or agency that receives such information about an individual may use it in accordance with applicable law. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.''.

SEC. 1050. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new section:

''SEC. 19. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) The Director of the National Security Agency, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Security Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

''(2)(A) Subject to subparagraph (B), for the purposes of this section, the term 'operational files' means files of the National Security Agency that document the means by which foreign intelligence or counterintelligence is collected through technical systems.

''(B) Files that contain disseminated intelligence are not operational files.

''(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

''(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 of title 5 or section 552a of title 5, United States Code;

''(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

''(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

''(i) The Permanent Select Committee on Intelligence of the House of Representatives.

''(ii) The Select Committee on Intelligence of the Senate.

''(iii) The Intelligence Oversight Board.

''(iv) The Department of Justice.

''(v) The Office of General Counsel of the National Security Agency.

''(vi) The Office of the Director of the National Security Agency.

''(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

''(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

''(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

''(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

''(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

''(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the National Security Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

''(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

''(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations which is filed with, or produced for, the court by the National Security Agency, such information shall be examined ex parte, in camera by the court.

''(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

''(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

''(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the National Security Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in paragraph (2).

''(II) The court may not order the National Security Agency to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes the National Security Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

''(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36.

''(vi) If the court finds under this paragraph that the National Security Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

''(vii) If at any time following the filing of a complaint pursuant to this paragraph the National Security Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

''(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.

''(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

''(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

''(3) A complainant that alleges that the National Security Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

''(A) Whether the National Security Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

''(B) Whether the National Security Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.''.

SEC. 1051. ASSISTANCE FOR STUDY OF FEASIBILITY OF BIENNIAL INTERNATIONAL AIR TRADE SHOW IN THE UNITED STATES AND FOR INITIAL IMPLEMENTATION.

(a) ASSISTANCE FOR COMMUNITY FEASIBILITY STUDY.—(1) The Secretary of Defense shall provide assistance to a community selected under subsection (d) for expenses of a study by that community of the feasibility of the establishment and operation of a biennial international air trade show in the area of that community.

(2) The Secretary shall provide for the community to submit to the Secretary a report containing the results of the study not later than September 30, 2004. The Secretary shall promptly submit the report to Congress, together with such comments on the report as the Secretary considers appropriate.

(b) ASSISTANCE FOR IMPLEMENTATION.—If the community conducting the study under subsection (a) determines that the establishment and operation of such an air show is feasible and should be implemented, the Secretary shall provide assistance to the community for the initial expenses of implementing such an air show in the selected community.

(c) AMOUNT OF ASSISTANCE.—The amount of assistance provided by the Secretary under subsections (a) and (b)—

(1) may not exceed a total of $1,000,000, to be derived from amounts available for operation and maintenance for the Air Force for fiscal year 2004 or later fiscal years; and

(2) may not exceed one-half of the cost of the study and may not exceed one-half the cost of such initial implementation.

(d) SELECTION OF COMMUNITY.—The Secretary shall select a community for purposes of subsection (a) through the use of competitive procedures. In making such selection, the Secretary shall give preference to those communities that already sponsor an air show, have demonstrated a history of supporting air shows with local resources, and have a significant role in the aerospace community. The community shall be selected not later than March 1, 2004.

SEC. 1052. CONTINUATION OF REASONABLE ACCESS TO MILITARY INSTALLATIONS FOR PERSONAL COMMERCIAL SOLICITATION.

(a) CONTINUED ACCESS TO MEMBERS.—Section 2679 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting ''ACCESS BY REPRESENTATIVES OF VETERANS' ORGANIZATIONS.—(1)'' before ''Upon certification'';

(2) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(3) in paragraph (2), as so redesignated, by striking ''subsection (a)'' and inserting ''paragraph (1)'';

(4) in paragraph (3), as so redesignated, by striking ''section'' and inserting ''subsection'';

(5) by redesignating subsection (d) as subsection (c); and

(6) by inserting before such subsection the following new subsection (b):

''(b) ACCESS FOR PERSONAL COMMERCIAL SOLICITATION.—An amendment or other revision to a Department of Defense directive relating to access to military installations for the purpose of conducting limited personal commercial solicitation shall not take effect until the end of the 90-day period beginning on the date the Secretary of Defense submits to Congress notice of the amendment or revision and the reasons therefor.''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§2679. Access to and use of space and equipment at military installations: representatives of veterans' organizations and other persons''.

(2) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

''2679. Access to and use of space and equipment at military installations: representatives of veterans' organizations and other persons.''.

SEC. 1053. COMMISSION ON NUCLEAR STRATEGY OF THE UNITED STATES.

(a) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the ''Commission on Nuclear Strategy of the United States'' (hereinafter this this section referred to as the ''Commission''). The Secretary of Defense, in consultation with the Secretary of Energy, shall enter into a contract with a federally funded research and development center to provide for the organization, management, and suport of the Commission.

(2) COMPOSITION.—(A) The Commission shall be composed of 12 members appointed by the Secretary of Defense. In selecting individuals for appointment to the Commission, the Secretary of Defense shall consult with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

(B) Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political, military, operational, and technical aspects of nuclear strategy.

(3) CHAIRMAN OF THE COMMISSION.—The Secretary of Defense shall designate one of the members of the Commission to serve as chairman of the Commission.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(5) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(b) DUTIES OF COMMISSION.—

(1) REVIEW OF NUCLEAR STRATEGY.—The Commission shall consider all matters of policy, force structure, nuclear stockpile stewardship, estimates of threats and force requirements, and any other issue the Commission may consider necessary in order to assess and make recommendations about current United States nuclear strategy as envisioned in the National Security Strategy of the United States and the Nuclear Posture Review, as well as possible alternative future strategies.

(2) ASSESSMENT OF RANGE OF NUCLEAR STRATEGIES.—The Commission shall assess possible future nuclear strategies for the United States that could be pursued over the next 20 years.

(3) RELATIONS WITH RUSSIA.—The Commission shall give special attention to assessing how the United States goal of strengthening partnership with Russia may be advanced or adversely affected by each of the possible nuclear strategies considered. The Commission shall also assess how relations with China, and the overall global security environment, may be affected by each of those possible nuclear strategies.

(4) OTHER MATTERS TO BE INCLUDED.—For each of the possible nuclear strategies considered, the Commission shall include in its report under subsection (c)(1), at a minimum, the following:

(A) A discussion of the policy defining the deterrence and military-political objectives of the United States against potential adversaries.

(B) A discussion of the military requirements for United States forces, the force structure and capabilities necessary to meet those requirements, and how they relate to the achievement of the objectives identified under subparagraph (A).

(C) Appropriate quantitative and qualitative analysis, including force-on-force exchange modeling, to calculate the effectiveness of the strategy under various scenario conditions, including scenarios of strategic and tactical surprise.

(D) An assessment of the role of missile defenses in the strategy, the dependence of the strategy on missile defense effectiveness, and the effect of missile defenses on the threat environment.

(E) An assessment of the implications of the proliferation of missiles and weapons of mass destruction, the proliferation of underground facilities and mobile launch platforms, and China's modernization of strategic forces.

(F) An assessment of the implications of asymmetries between the United States and Russia, including doctrine, nonstrategic nuclear weapons, and active and passive defenses.

(G) An assessment of strategies or options for dealing with nuclear capable nations that may provide nuclear weapons to terrorist or transnational groups.

(H) An assessment of the contribution of nonproliferation strategies and programs to the overall security of the United States and how those strategies and programs may affect the overall requirements of future nuclear strategy.

(I) An assessment of the effect of the strategy on the nuclear programs of emerging nuclear weapons states, including North Korea, Iran, Pakistan, and India.

(5) RECOMMENDATIONS.—The Commission shall include in its report recommendations for any continuities or changes in nuclear strategy it believes should be taken to enhance the national security of the United States.

(6) COOPERATION FROM GOVERNMENT OFFICIALS.—(A) In carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Secretary of Energy, and any other United States Government official in providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

(B) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission. The Director of Central Intelligence may designate at least one officer or employee of the Central Intelligence Agency to serve as a liaison officer between that agency and the Commission.

(c) REPORTS.—

(1) COMMISSION REPORT.—The Commission shall submit to the Secretary of Defense and to the Committees on Armed Services of the Senate and House of Representatives a report on the Commission's findings and conclusions not later than 18 months after the date of its first meeting.

(2) SECRETARY OF DEFENSE RESPONSE.—Not later than one year after the date on which the Commission submits its report under paragraph (1), the Secretary of Defense shall submit to Congress a report—

(A) commenting on the Commission's findings and conclusions; and

(B) explaining what actions, if any, the Secretary intends to take to implement the recommendations of the Commission and, with respect to each such recommendation, the Secretary's reasons for implementing, or not implementing, the recommendation.

(d) HEARINGS AND PROCEDURES.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out the purposes of this section, hold hearings and take testimony.

(2) PROCEDURES.—The federally funded research and development center referred to in subsection (a)(1) shall be responsible for establishing appropriate procedures for the Commission.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) FUNDING.—Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense.

(f) TERMINATION OF COMMISSION.—The Commission shall terminate 60 days after the date of the submission of its report under subsection (c)(1).

(g) IMPLEMENTATION.—

(1) FFRDC CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a)(1) not later than 60 days after the date of the enactment of this Act.

(2) FIRST MEETING.—The Commission shall convene its first meeting not later than 60 days after the date as of which all members of the Commission have been appointed.

SEC. 1054. EXTENSION OF COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.

Section 1605(f) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by striking ''September 30, 2004'' and inserting ''September 30, 2008''.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

Subtitle A—Department of Defense Civilian Personnel Generally

SEC. 1101. MODIFICATION OF THE OVERTIME PAY CAP.

Section 5542(a)(2) of title 5, United States Code, is amended—

(1) by inserting ''the greater of'' before ''one and one-half''; and

(2) by inserting ''or the hourly rate of basic pay of the employee'' after ''law)'' the second place it appears.

SEC. 1102. MILITARY LEAVE FOR MOBILIZED FEDERAL CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Subsection (b) of section 6323 of title 5, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and at the end of clause (ii), as so redesignated, by inserting ''or''; and

(B) by inserting ''(A)'' after ''(2)''; and

(2) by inserting the following before the text beginning with ''is entitled'':

''(B) performs full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10;''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to military service performed on or after the date of the enactment of this Act.

SEC. 1103. COMMON OCCUPATIONAL AND HEALTH STANDARDS FOR DIFFERENTIAL PAYMENTS AS A CONSEQUENCE OF EXPOSURE TO ASBESTOS.

(a) PREVAILING RATE SYSTEMS.—Section 5343(c)(4) of title 5, United States Code, is amended by inserting before the semicolon at the end the following: '', and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970''.

(b) GENERAL SCHEDULE PAY RATES.—Section 5545(d) of such title is amended by inserting before the period at the end of the first sentence the following: '', and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970''.

(c) APPLICABILITY.—Subject to any vested constitutional property rights, any administrative or judicial determination after the date of enactment of this Act concerning backpay for a differential established under sections 5343(c)(4) or 5545(d) of such title shall be based on occupational safety and health standards described in the amendments made by subsections (a) and (b).

SEC. 1104. INCREASE IN ANNUAL STUDENT LOAN REPAYMENT AUTHORITY.

Section 5379(b)(2)(A) of title 5, United States Code, is amended by striking ''$6,000'' and inserting ''$10,000''.

SEC. 1105. AUTHORIZATION FOR CABINET SECRETARIES, SECRETARIES OF MILITARY DEPARTMENTS, AND HEADS OF EXECUTIVE AGENCIES TO BE PAID ON A BIWEEKLY BASIS.

(a) AUTHORIZATION.—Section 5504 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by striking the last sentence of both subsection (a) and subsection (b); and

(3) by inserting after subsection (b) the following:

''(c) For the purposes of this section:

''(1) The term 'employee' means—

''(A) an employee in or under an Executive agency;

''(B) an employee in or under the Office of the Architect of the Capitol, the Botanic Garden, and the Library of Congress, for whom a basic administrative workweek is established under section 6101(a)(5) of this title; and

''(C) an individual employed by the government of the District of Columbia.

''(2) The term 'employee' does not include—

''(A) an employee on the Isthmus of Panama in the service of the Panama Canal Commission; or

''(B) an employee or individual excluded from the definition of employee in section 5541(2) of this title other than an employee or individual excluded by clauses (ii), (iii), and (xiv) through (xvii) of such section.

''(3) Notwithstanding paragraph (2), an individual who otherwise would be excluded from the definition of employee shall be deemed to be an employee for purposes of this section if the individual's employing agency so elects, under guidelines in regulations promulgated by the Office of Personnel Management under subsection (d)(2).''.

(b) GUIDELINES.—Subsection (d) of section 5504 of such title, as redesignated by subsection (a), is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following new paragraph:

''(2) The Office of Personnel Management shall provide guidelines by regulation for exemptions to be made by the heads of agencies under subsection (c)(3). Such guidelines shall provide for such exemptions only under exceptional circumstances.''.

SEC. 1106. SENIOR EXECUTIVE SERVICE AND PERFORMANCE.

(a) SENIOR EXECUTIVE PAY.—Chapter 53 of title 5, United States Code, is amended—

(1) in section 5304—

(A) in subsection (g)(2)—

(i) in subparagraph (A) by striking ''subparagraphs (A)–(E)'' and inserting ''subparagraphs (A)–(D)''; and

(ii) in subparagraph (B) by striking ''subsection (h)(1)(F)'' and inserting ''subsection (h)(1)(D)'';

(B) in subsection (h)(1)—

(i) by striking subparagraphs (B) and (C);

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (B), (C), and (D), respectively;

(iii) in clause (ii) by striking ''or'' at the end;

(iv) in clause (iii) by striking the period and inserting a semicolon; and

(v) by adding at the end the following new clauses:

''(iv) a Senior Executive Service position under section 3132;

''(v) a position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151; or

''(vi) a position in a system equivalent to the system in clause (iv), as determined by the President's Pay Agent designated under subsection (d).''; and

(C) in subsection (h)(2)(B)—

(i) in clause (i)—

(I) by striking ''subparagraphs (A) through (E)'' and inserting ''subparagraphs (A) through (C)''; and

(II) by striking ''clause (i) or (ii)'' and inserting ''clause (i), (ii), (iii), (iv), (v), or (vii)''; and

(ii) in clause (ii)—

(I) by striking ''paragraph (1)(F)'' and inserting ''paragraph (1)(D)''; and

(II) by striking ''clause (i) or (ii)'' and inserting ''clause (i), (ii), (iii), (iv), (v), or (vi)'';

(2) by amending section 5382 to read as follows:

''§ 5382. Establishment of rates of pay for the Senior Executive Service

''(a) Subject to regulations prescribed by the Office of Personnel Management, there shall be established a range of rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates within the range, based on individual performance, contribution to the agency's performance, or both, as determined under a rigorous performance management system. The lowest rate of the range shall not be less than the minimum rate of basic pay payable under section 5376, and the highest rate, for any position under this system or an equivalent system as determined by the President's Pay Agent designated under section 5304(d), shall not exceed the rate for level III of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5306(e) or 5373.

''(b) Notwithstanding the provisions of subsection (a), the applicable maximum shall be level II of the Executive Schedule for any agency that is certified under section 5307 as having a performance appraisal system which, as designed and applied, makes meaningful distinctions based on relative performance.

''(c) No employee may suffer a reduction in pay by reason of transfer from an agency with an applicable maximum rate of pay prescribed under subsection (b) to an agency with an applicable maximum rate of pay prescribed under subsection (a).''; and

(3) in section 5383—

(A) in subsection (a) by striking ''which of the rates established under section 5382 of this title'' and inserting ''which of the rates within a range established under section 5382''; and

(B) in subsection (c) by striking ''for any pay adjustment under section 5382 of this title'' and inserting ''as provided in regulations prescribed by the Office under section 5385''.

(b) POST-EMPLOYMENT RESTRICTIONS.—(1) Clause (ii) of section 207(c)(2)(A) of title 18, United States Code is amended to read as follows:

''(ii) employed in a position which is not referred to in clause (i) and for which that person is paid at a rate of basic pay which is equal to or greater than 96 percent of the rate of basic pay for level II of the Executive Schedule, or, for a period of 2 years following the enactment of the Federal Employees Pay for Performance Act of 2003, a person who, on the day prior to the enactment of that Act, was employed in a position which is not referred to in clause (i) and for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5304 or section 5304a of title 5, was equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service on the day prior to the enactment of that Act,''.

(2) Subchapter I of chapter 73 of title 5, United States Code, is amended by inserting at the end the following new section:

''§ 7302. Post-employment notification

''(a) Not later than the effective date of the amendments made by sections 3 and 4 of the Federal Employees Pay for Performance Act of 2003, or 180 days after the date of enactment of that Act, whichever is later, the Office of Personnel Management shall, in consultation with the Attorney General and the Office of Government Ethics, promulgate regulations requiring that each Executive branch agency notify any employee of that agency who is subject to the provisions of section 207(c)(1) of title 18, as a result of the amendment to section 207(c)(2)(A)(ii) of that title by that Act.

''(b) The regulations shall require that notice be given before, or as part of, the action that affects the employee's coverage under section 207(c)(1) of title 18, by virtue of the provisions of section 207(c)(2)(A)(ii) of that title, and again when employment or service in the covered position is terminated.''.

(c) The table of sections for chapter 73 of title 5, United States Code, is amended by adding after the item relating to section 7301 the following:

''7302. Post-employment notification.''.

(c) EFFECTIVE DATE AND APPLICABILITY.—(1) The amendments made by this section shall take effect on the first day of the first pay period beginning on or after the first January 1 following the date of enactment of this section.

(2) The amendments made by subsection (a) may not result in a reduction in the rate of basic pay for any senior executive during the first year after the effective date of those amendments.

(3) For the purposes of subsection (c)(2), the rate of basic pay for a senior executive shall be deemed to be the rate of basic pay set for the senior executive under section 5383 of title 5, United States Code, plus applicable locality pay paid to that senior executive, as of the date of enactment of this Act.

SEC. 1107. DESIGN ELEMENTS OF PAY-FOR-PERFORMANCE SYSTEMS IN DEMONSTRATION PROJECTS.

A pay-for-performance system may not be initiated under chapter 47 of title 5, United States Code, after the date of enactment of this Act, unless it incorporates the following elements:

(1) adherence to merit principles set forth in section 2301 of such title;

(2) a fair, credible, and transparent employee performance appraisal system;

(3) a link between elements of the pay-for-performance system, the employee performance appraisal system, and the agency's strategic plan;

(4) a means for ensuring employee involvement in the design and implementation of the system;

(5) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system;

(6) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;

(7) effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance; and

(8) a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the pay-for-performance system.

SEC. 1108. FEDERAL FLEXIBLE BENEFITS PLAN ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an agency or other employing entity of the Government which provides or plans to provide a flexible spending account option for its employees shall not impose any fee with respect to any of its employees in order to defray the administrative costs associated therewith.

(b) OFFSET OF ADMINISTRATIVE COSTS.—Each such agency or employing entity that offers a flexible spending account option under a program established or administered by the Office of Personnel Management shall periodically forward to such Office, or entity designated by such Office, the amount necessary to offset the administrative costs of such program which are attributable to such agency.

(c) REPORTS.—(1) The Office shall submit a report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate no later than March 31, 2004, specifying the administrative costs associated with the Governmentwide program (referred to in subsection (b)) for fiscal year 2003, as well as the projected administrative costs of such program for each of the 5 fiscal years thereafter.

(2) At the end of each of the first 3 calendar years in which an agency or other employing entity offers a flexible spending account option under this section, such agency or entity shall submit a report to the Office of Management and Budget showing the amount of its employment tax savings in such year which are attributable to such option, net of administrative fees paid under section (b).

SEC. 1109. CLARIFICATION TO HATCH ACT; LIMITATION ON DISCLOSURE OF CERTAIN RECORDS.

(a) CLARIFICATION TO HATCH ACT.—No Federal employee or individual who voluntarily separates from the civil service (including by transferring to an international organization in the circumstances described in section 3582(a) of title 5, United States Code) shall be subject to enforcement of the provisions of section 7326 of such title (including any loss of rights under subchapter IV of chapter 35 of such title resulting from any proceeding under such section 7326), except that this subsection shall not apply in the event that such employee or individual subsequently becomes reemployed in the civil service. The preceding sentence shall apply to any complaint which is filed with or pending before the Merit Systems Protection Board after the date of the enactment of this Act.

(b) LIMITATION ON DISCLOSURE OF CERTAIN RECORDS.—Notwithstanding any other provision of law, rule, or regulation, nothing described in paragraph (2) or (3) of use ''q'' of the proposed revisions published in the Federal Register on July 12, 2001 (66 Fed. Reg. 36613) shall be considered to constitute a routine use of records maintained by the Office of Special Counsel.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''Federal employee or individual'' means any employee or individual, as referred to in section 7326 of title 5, United States Code;

(2) the term ''civil service'' has the meaning given such term by section 2101 of title 5, United States Code;

(3) the term ''international organization'' has the meaning given such term by section 3581 of title 5, United States Code; and

(4) the terms ''routine use'' and ''record'' have the respective meanings given such terms under section 552a(a) of title 5, United States Code.

SEC. 1110. EMPLOYEE SURVEYS.

(a) IN GENERAL.—Each agency shall conduct an annual survey of its employees (including survey questions unique to the agency and questions prescribed under subsection (b)) to assess—

(1) leadership and management practices that contribute to agency performance; and

(2) employee satisfaction with—

(A) leadership policies and practices;

(B) work environment;

(C) rewards and recognition for professional accomplishment and personal contributions to achieving organizational mission;

(D) opportunity for professional development and growth; and

(E) opportunity to contribute to achieving organizational mission.

(b) REGULATIONS.—The Office of Personnel Management shall issue regulations prescribing survey questions that should appear on all agency surveys under subsection (a) in order to allow a comparison across agencies.

(c) AVAILABILITY OF RESULTS.—The results of the agency surveys under subsection (a) shall be made available to the public and posted on the website of the agency involved, unless the head of such agency determines that doing so would jeopardize or negatively impact national security.

(d) AGENCY DEFINED.—For purposes of this section, the term ''agency'' means an Executive agency (as defined by section 105 of title 5, United States Code).

Subtitle B—Department of Defense National Security Personnel System

SEC. 1111. DEPARTMENT OF DEFENSE NATIONAL SECURITY PERSONNEL SYSTEM.

(a) IN GENERAL.—(1) Subpart I of part III of title 5, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 99—DEPARTMENT OF DEFENSE NATIONAL SECURITY PERSONNEL SYSTEM

''§ 9901. Definitions

''For purposes of this chapter—

''(1) the term 'Director' means the Director of the Office of Personnel Management; and

''(2) the term 'Secretary' means the Secretary of Defense.

''§ 9902. Establishment of human resources management system

''(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary may, in regulations prescribed jointly with the Director, establish, and from time to time adjust, a human resources management system for some or all of the organizational or functional units of the Department of Defense. If the Secretary certifies that issuance or adjustment of a regulation, or the inclusion, exclusion, or modification of a particular provision therein, is essential to the national security, the Secretary may, subject to the decision of the President, waive the requirement in the preceding sentence that the regulation or adjustment be issued jointly with the Director.

''(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

''(1) be flexible;

''(2) be contemporary;

''(3) not waive, modify, or otherwise affect—

''(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

''(B) any provision of section 2302, relating to prohibited personnel practices;

''(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

''(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

''(I) providing for equal employment opportunity through affirmative action; or

''(II) providing any right or remedy available to any employee or applicant for employment in the public service;

''(D) any other provision of this part (as described in subsection (c)); or

''(E) any rule or regulation prescribed under any provision of law referred to in this paragraph;

''(4) ensure that employees may organize, bargain collectively as provided for in this chapter, and participate through labor organizations of their own choosing in decisions which affect them, subject to the provisions of this chapter and any exclusion from coverage or limitation on negotiability established pursuant to law;

''(5) not be limited by any specific law or authority under this title that is waivable under this chapter or by any provision of this chapter or any rule or regulation prescribed under this title that is waivable under this chapter, except as specifically provided for in this section; and

''(6) include a performance management system that incorporates the following elements:

''(A) adherence to merit principles set forth in section 2301;

''(B) a fair, credible, and transparent employee performance appraisal system;

''(C) a link between the performance management system and the agency's strategic plan;

''(D) a means for ensuring employee involvement in the design and implementation of the system;

''(E) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the performance management system;

''(F) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;

''(G) effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance; and

''(H) a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the performance management system.

''(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part referred to in subsection (b)(3)(D) are (to the extent not otherwise specified in this title)—

''(1) subparts A, B, E, G, and H of this part; and

''(2) chapters 41, 45, 47, 55 (except subchapter V thereof), 57, 59, 72, 73, and 79, and this chapter.

''(d) LIMITATIONS RELATING TO PAY.—(1) Nothing in this section shall constitute authority to modify the pay of any employee who serves in an Executive Schedule position under subchapter II of chapter 53 of this title.

''(2) Except as provided for in paragraph (1), the total amount in a calendar year of allowances, differentials, bonuses, awards, or other similar cash payments paid under this title to any employee who is paid under section 5376 or 5383 of this title or under title 10 or under other comparable pay authority established for payment of Department of Defense senior executive or equivalent employees may not exceed the total annual compensation payable to the Vice President under section 104 of title 3.

''(3) To the maximum extent practicable, the rates of compensation for civilian employees at the Department of Defense shall be adjusted at the same rate, and in the same proportion, as are rates of compensation for members of the uniformed services.

''(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—(1) In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of, employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary and the Director shall provide for the following:

''(A) The Secretary and the Director shall, with respect to any proposed system or adjustment—

''(i) provide to the employee representatives representing any employees who might be affected a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

''(ii) give such representatives at least 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

''(iii) give any recommendations received from such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

''(B) Following receipt of recommendations, if any, from such employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

''(i) notify Congress of those parts of the proposal, together with the recommendations of the employee representatives;

''(ii) meet and confer for not less than 30 calendar days with the employee representatives, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

''(iii) at the Secretary's option, or if requested by a majority of the employee representatives participating, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

''(C)(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which the recommendations are accepted by the Secretary and the Director, may be implemented immediately.

''(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary, in his discretion, determines that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts (including any modifications made in response to the recommendations as the Secretary determines advisable), but only after 30 days have elapsed after notifying Congress of the decision to implement the part or parts involved (as so modified, if applicable).

''(iii) The Secretary shall notify Congress promptly of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from the employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

''(D) If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

''(i) develop a method for the employee representatives to participate in any further planning or development which might become necessary; and

''(ii) give the employee representatives adequate access to information to make that participation productive.

''(2) The Secretary may, at the Secretary's discretion, engage in any and all collaboration activities described in this subsection at an organizational level above the level of exclusive recognition.

''(3) In the case of any employees who are not within a unit with respect to which a labor organization is accorded exclusive recognition, the Secretary and the Director may develop procedures for representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of this subsection.

''(f) PROVISIONS REGARDING NATIONAL LEVEL BARGAINING.—(1) Any human resources management system implemented or modified under this chapter may include employees of the Department of Defense from any bargaining unit with respect to which a labor organization has been accorded exclusive recognition under chapter 71 of this title.

''(2) For any bargaining unit so included under paragraph (1), the Secretary may bargain at an organizational level above the level of exclusive recognition. Any such bargaining shall—

''(A) be binding on all subordinate bargaining units at the level of recognition and their exclusive representatives, and the Department of Defense and its subcomponents, without regard to levels of recognition;

''(B) supersede all other collective bargaining agreements, including collective bargaining agreements negotiated with an exclusive representative at the level of recognition, except as otherwise determined by the Secretary;

''(C) not be subject to further negotiations for any purpose, including bargaining at the level of recognition, except as provided for by the Secretary; and

''(D) except as otherwise specified in this chapter, not be subject to review or to statutory third-party dispute resolution procedures outside the Department of Defense.

''(3) The National Guard Bureau and the Army and Air Force National Guard are excluded from coverage under this subsection.

''(4) Any bargaining completed pursuant to this subsection with a labor organization not otherwise having national consultation rights with the Department of Defense or its subcomponents shall not create any obligation on the Department of Defense or its subcomponents to confer national consultation rights on such a labor organization.

''(g) PROVISIONS RELATING TO APPELLATE PROCEDURES.—(1) The Secretary shall—

''(A) establish an appeals process that provides that employees of the Department of Defense are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

''(B) in prescribing regulations for any such appeals process—

''(i) ensure that employees of the Department of Defense are afforded the protections of due process; and

''(ii) toward that end, be required to consult with the Merit Systems Protection Board before issuing any such regulations.

''(2) Any regulations establishing the appeals process required by paragraph (1) that relate to any matters within the purview of chapter 77 shall—

''(A) provide for an independent review panel, appointed by the President, which shall not include the Secretary or the Deputy Secretary of Defense or any of their subordinates;

''(B) be issued only after—

''(i) notification to the appropriate committees of Congress; and

''(ii) consultation with the Merit Systems Protection Board and the Equal Employment Opportunity Commission;

''(C) ensure the availability of procedures that—

''(i) are consistent with requirements of due process; and

''(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department of Defense; and

''(D) modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department of Defense.

''(h) PROVISIONS RELATED TO SEPARATION AND RETIREMENT INCENTIVES.—(1) The Secretary may establish a program within the Department of Defense under which employees may be eligible for early retirement, offered separation incentive pay to separate from service voluntarily, or both. This authority may be used to reduce the number of personnel employed by the Department of Defense or to restructure the workforce to meet mission objectives without reducing the overall number of personnel. This authority is in addition to, and notwithstanding, any other authorities established by law or regulation for such programs.

''(2) For purposes of this section, the term 'employee' means an employee of the Department of Defense, serving under an appointment without time limitation, except that such term does not include—

''(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of this title, or another retirement system for employees of the Federal Government;

''(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in paragraph (1); or

''(C) for purposes of eligibility for separation incentives under this section, an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance.

''(3) An employee who is at least 50 years of age and has completed 20 years of service, or has at least 25 years of service, may, pursuant to regulations promulgated under this section, apply and be retired from the Department of Defense and receive benefits in accordance with chapter 83 or 84 if the employee has been employed continuously within the Department of Defense for more than 30 days before the date on which the determination to conduct a reduction or restructuring within 1 or more Department of Defense components is approved pursuant to the program established under subsection (a).

''(4)(A) Separation pay shall be paid in a lump sum or in installments and shall be equal to the lesser of—

''(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of this title, if the employee were entitled to payment under such section; or

''(ii) $25,000.

''(B) Separation pay shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit. Separation pay shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of this title, based on any other separation.

''(C) Separation pay, if paid in installments, shall cease to be paid upon the recipient's acceptance of employment by the Federal Government, or commencement of work under a personal services contract as described in paragraph (5).

''(5)(A) An employee who receives separation pay under such program may not be reemployed by the Department of Defense for a 12-month period beginning on the effective date of the employee's separation, unless this prohibition is waived by the Secretary on a case-by-case basis.

''(B) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 (Public Law 103–236; 108 Stat. 111) and accepts employment with the Government of the United States, or who commences work through a personal services contract with the United States within 5 years after the date of the separation on which payment of the separation pay is based, shall be required to repay the entire amount of the separation pay to the Department of Defense. If the employment is with an Executive agency (as defined by section 105 of this title) other than the Department of Defense, the Director may, at the request of the head of that agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is within the Department of Defense, the Secretary may waive the repayment if the individual involved is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

''(6) Under this program, early retirement and separation pay may be offered only pursuant to regulations established by the Secretary, subject to such limitations or conditions as the Secretary may require.

''(i) PROVISIONS RELATING TO REEMPLOYMENT.—If annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Department of Defense, his annuity shall continue. An annuitant so reemployed shall not be considered an employee for purposes of chapter 83 or 84.

''(j) ADDITIONAL PROVISIONS RELATING TO PERSONNEL MANAGEMENT.—Notwithstanding subsection (c), the Secretary may exercise authorities that would otherwise be available to the Secretary under paragraphs (1), (3), and (8) of section 4703(a) of this title.

''§ 9903. Attracting highly qualified experts

''(a) IN GENERAL.—The Secretary may carry out a program using the authority provided in subsection (b) in order to attract highly qualified experts in needed occupations, as determined by the Secretary.

''(b) AUTHORITY.—Under the program, the Secretary may—

''(1) appoint personnel from outside the civil service and uniformed services (as such terms are defined in section 2101 of this title) to positions in the Department of Defense without regard to any provision of this title governing the appointment of employees to positions in the Department of Defense;

''(2) prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1) at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376 of this title, as increased by locality-based comparability payments under section 5304 of this title, notwithstanding any provision of this title governing the rates of pay or classification of employees in the executive branch; and

''(3) pay any employee appointed under paragraph (1) payments in addition to basic pay within the limits applicable to the employee under subsection (d).

''(c) LIMITATION ON TERM OF APPOINTMENT.—(1) Except as provided in paragraph (2), the service of an employee under an appointment made pursuant to this section may not exceed 5 years.

''(2) The Secretary may, in the case of a particular employee, extend the period to which service is limited under paragraph (1) by up to 1 additional year if the Secretary determines that such action is necessary to promote the Department of Defense's national security missions.

''(d) LIMITATIONS ON ADDITIONAL PAYMENTS.—(1) The total amount of the additional payments paid to an employee under this section for any 12-month period may not exceed the lesser of the following amounts:

''(A) $50,000 in fiscal year 2004, which may be adjusted annually thereafter by the Secretary, with a percentage increase equal to one-half of 1 percentage point less than the percentage by which the Employment Cost Index, published quarterly by the Bureau of Labor Statistics, for the base quarter of the year before the preceding

calendar year exceeds the Employment Cost Index for the base quarter of the second year before the preceding calendar year.

''(B) The amount equal to 50 percent of the employee's annual rate of basic pay.

For purposes of this paragraph, the term 'base quarter' has the meaning given such term by section 5302(3).

''(2) An employee appointed under this section is not eligible for any bonus, monetary award, or other monetary incentive for service except for payments authorized under this section.

''(3) Notwithstanding any other provision of this subsection or of section 5307, no additional payments may be paid to an employee under this section in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

''(e) SAVINGS PROVISIONS.—In the event that the Secretary terminates this program, in the case of an employee who, on the day before the termination of the program, is serving in a position pursuant to an appointment under this section—

''(1) the termination of the program does not terminate the employee's employment in that position before the expiration of the lesser of—

''(A) the period for which the employee was appointed; or

''(B) the period to which the employee's service is limited under subsection (c), including any extension made under this section before the termination of the program; and

''(2) the rate of basic pay prescribed for the position under this section may not be reduced as long as the employee continues to serve in the position without a break in service.

''§ 9904. Employment of older Americans

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may appoint older Americans into positions in the excepted service for a period not to exceed 2 years, provided that—

''(1) any such appointment shall not result in—

''(A) the displacement of individuals currently employed by the Department of Defense (including partial displacement through reduction of nonovertime hours, wages, or employment benefits); or

''(B) the employment of any individual when any other person is in a reduction-in-force status from the same or substantially equivalent job within the Department of Defense; and

''(2) the individual to be appointed is otherwise qualified for the position, as determined by the Secretary.

''(b) EFFECT ON EXISTING RETIREMENT BENEFITS.—Notwithstanding any other provision of law, an individual appointed pursuant to subsection (a) who otherwise is receiving an annuity, pension, retired pay, or other similar payment shall not have the amount of said annuity, pension, or other similar payment reduced as a result of such employment.

''(c) EXTENSION OF APPOINTMENT.—Notwithstanding subsection (a), the Secretary may extend an appointment made pursuant to this section for up to an additional 2 years if the individual employee possesses unique knowledge or abilities that are not otherwise available to the Department of Defense.

''(d) DEFINITION.—For purposes of this section, the term 'older American' means any citizen of the United States who is at least 55 years of age.

''§ 9905. Special pay and benefits for certain employees outside the United States

''The Secretary may provide to certain civilian employees of the Department of Defense assigned to activities outside the United States as determined by the Secretary to be in support of Department of Defense activities abroad hazardous to life or health or so specialized because of security requirements as to be clearly distinguishable from normal Government employment—

''(1) allowances and benefits—

''(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (Public Law 96–465, 22 U.S.C. 4081 et seq.) or any other provision of law; or

''(B) comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency; and

''(2) special retirement accrual benefits and disability in the same manner provided for by the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 et seq.) and in section 18 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403r).''.

(2) The table of chapters for part III of such title is amended by adding at the end of subpart I the following new item:

''99. Department of Defense National Security Personnel System ..... 9901''.

(b) IMPACT ON DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL.—(1) Any exercise of authority under chapter 99 of such title (as added by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

(2) No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

SEC. 1201. EXPANSION OF AUTHORITY TO PROVIDE ADMINISTRATIVE SUPPORT AND SERVICES AND TRAVEL AND SUBSISTENCE EXPENSES FOR CERTAIN FOREIGN LIAISON OFFICERS.

(a) ADMINISTRATIVE SUPPORT AND SERVICES.—Subsection (a) of section 1051a of title 10, United States Code, is amended—

(1) by striking ''involved in a coalition with the United States'';

(2) by striking ''temporarily''; and

(3) by striking '' in connection with the planning for, or conduct of, a coalition operation''.

(b) TRAVEL, SUBSISTENCE, AND OTHER EXPENSES.—Subsection (b) of such section is amended—

(1) by striking ''(1)'';

(2) by striking ''expenses specified in paragraph (2)'' and inserting ''travel, subsistence, and similar personal expenses'';

(3) by striking ''developing country'' and inserting ''developing nation'';

(4) by striking ''in connection with the assignment of that officer to the headquarters of a combatant command as described in subsection (a)'' and inserting ''involved in a coalition while the liaison officer is assigned temporarily to a headquarters described in subsection (a) in connection with the planning for, or conduct of, a coalition operation''; and

(5) by striking paragraph (2).

(c) REIMBURSEMENT.—Subsection (c) of such section is amended by striking ''by'' before ''subsection (a)'' and inserting ''under''.

(d) CLERICAL AMENDMENTS.—(1) The heading for section 1051a of such title is amended to read as follows:

''§ 1051a. Foreign officers: administrative services and support; travel, subsistence, and other personal expenses''.

(2) The subsection heading for subsection (a) is amended by striking ''AUTHORITY'' and inserting ''ADMINISTRATIVE SERVICES AND SUPPORT''.

(3) The item relating to such section in the table of sections at the beginning of chapter 53 of each title is amended to read as follows:

''1051a. Foreign officers: administrative services and support; travel, subsistence, and other personal expenses.''.

SEC. 1202. RECOGNITION OF SUPERIOR NONCOMBAT ACHIEVEMENTS OR PERFORMANCE BY MEMBERS OF FRIENDLY FOREIGN FORCES AND OTHER FOREIGN NATIONALS.

(a) AUTHORITY.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1051a the following new section:

''§ 1051b. Bilateral or regional cooperation programs: awards and mementos funds to recognize superior noncombat achievements or performance

''(a) GENERAL AUTHORITY.—The Secretary of Defense may present awards and mementos purchased with funds appropriated for operation and maintenance of the armed forces to recognize superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

''(b) ACTIVITIES THAT MAY BE RECOGNIZED.—Activities that may be recognized under subsection (a) include superior achievement or performance that—

''(1) plays a crucial role in shaping the international security environment in ways that protect and promote United States interests;

''(2) supports or enhances United States overseas presence and peacetime engagement activities, including defense cooperation initiatives, security assistance training and programs, and training and exercises with the armed forces;

''(3) helps to deter aggression and coercion, build coalitions, and promote regional stability; or

''(4) serves as a role model for appropriate conduct by military forces in emerging democracies.

''(c) LIMITATION.—Expenditures for the purchase or production of mementos for award under this section may not exceed the 'minimal value' established in accordance with section 7342(a)(5) of title 5.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1051a the following new item:

''1051b. Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance.''.

SEC. 1203. EXPANSION OF AUTHORITY TO WAIVE CHARGES FOR COSTS OF ATTENDANCE AT GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

Section 1306(b)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2892) is amended by striking ''of cooperation partner states of the North Atlantic Council or the Partnership for Peace'' and inserting ''from states located in Europe or the territory of the former Soviet Union''.

SEC. 1204. IDENTIFICATION OF GOODS AND TECHNOLOGIES CRITICAL FOR MILITARY SUPERIORITY.

(a) IN GENERAL.—(1) Subchapter II of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2508. Goods and technologies critical for military superiority: list

''(a) REQUIREMENT TO MAINTAIN LIST.—(1) The Secretary of Defense shall maintain a list of any goods or technology that, if obtained by a potential adversary, could undermine the military superiority or qualitative military advantage of the United States over potential adversaries.

''(2) In this section, the term 'goods or technology' means—

''(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

''(B) any information and know-how (whether in tangible form, such as models, prototypes,

drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data.

''(b) MATTERS TO BE INCLUDED ON LIST.—The Secretary shall include on the list the following:

''(1) Any technology or developing critical technology (including conventional weapons, weapons of mass destruction, and delivery systems) that could enhance a potential adversary's military capabilities or that is critical to the United States maintaining its military superiority and qualitative military advantage.

''(2) Any dual-use good, material, or know-how that could enhance a potential adversary's military capabilities or that is critical to the United States maintaining its military superiority and qualitative military advantage, including those used to manufacture weapons of mass destruction and their associated delivery systems.

''(c) REQUIREMENTS.—The Secretary shall ensure that—

''(1) the list is subject to a systematic, ongoing assessment and analysis of dual-use technologies; and

''(2) the list is updated not less often than every two months.

''(d) AVAILABILITY.—The list shall be made available—

''(1) in unclassified form on the Department of Defense public website, in a usable form; and

''(2) in classified form to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.''.

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

''2508. Goods and technologies critical for military superiority: list.''.

(b) DEADLINE FOR ESTABLISHMENT.—The list required by section 2508 of title 10, United States Code, as added by subsection (a), shall be established not later than 180 days after the enactment of this Act.

SEC. 1205. REPORT ON ACQUISITION BY IRAQ OF ADVANCED WEAPONS.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives a report on the acquisition by Iraq of weapons of mass destruction and associated delivery systems and the acquisition by Iraq of advanced conventional weapons.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) A description of how Iraq was able to obtain any materials, technology, and know-how for its nuclear, chemical, biological, ballistic missile, and unmanned aerial vehicle programs, and advanced conventional weapons programs, from 1979 through April 2003 from entities (including Iraqi citizens) outside of Iraq.

(2) An assessment of the degree to which United States, foreign, and multilateral export control regimes prevented acquisition by Iraq of weapons of mass destruction-related technology and materials and advanced conventional weapons and delivery systems since the commencement of international inspections in Iraq.

(3) An assessment of the effectiveness of United Nations sanctions at halting the flow of militarily-useful contraband to Iraq from 1991 until the end of Operation Iraqi Freedom.

(4) An assessment of how Iraq was able to evade International Atomic Energy Agency and United Nations inspections regarding chemical, nuclear, biological, and missile weapons and related capabilities.

(5) Identification and a catalogue of the entities and countries that transferred militarily useful contraband to Iraq between 1991 and the end of Operation Iraqi Freedom, and the nature of that contraband.

(c) FORM OF REPORT.—The report shall be submitted in unclassified form with a classified annex, if necessary.

SEC. 1206. AUTHORITY FOR CHECK CASHING AND CURRENCY EXCHANGE SERVICES TO BE PROVIDED TO FOREIGN MILITARY MEMBERS PARTICIPATING IN CERTAIN ACTIVITIES WITH UNITED STATES FORCES.

(a) AUTHORITY.—Subsection (b) of section 3342 of title 31, United States Code, is amended by adding at the end the following new paragraph:

''(8) A member of the military forces of an allied or coalition nation who is participating in a joint operation, joint exercise, humanitarian mission, or peacekeeping mission with the Armed Forces of the United States, but—

''(A) only if—

''(i) such disbursing official action for members of the military forces of that nation is approved by the senior United States military commander assigned to that operation or mission; and

''(ii) that nation has guaranteed payment for any deficiency resulting from such disbursing official action; and

''(B) in the case of negotiable instruments, only for a negotiable instrument drawn on a financial institution located in the United States or on a foreign branch of such an institution.''.

(b) TECHNICAL AMENDMENTS.—That subsection is further amended—

(1) by striking ''only for—'' in the matter preceding paragraph (1) and inserting ''only for the following:'';

(2) by striking ''an'' at the beginning of paragraph (1) and inserting ''An'';

(3) by striking ''personnel'' in paragraphs (2) and (6) and inserting ''Personnel'';

(4) by striking ''a'' at the beginning of paragraphs (3), (4), (5), and (7) and inserting ''A'';

(5) by striking the semicolon at the end of paragraphs (1) through (5) and inserting a period;

(6) by striking ''; or'' at the end of paragraph (6) and inserting a period; and

(7) by striking ''1752(1))'' in paragraph (7) and inserting ''1752(1)))''.

SEC. 1207. REQUIREMENTS FOR TRANSFER TO FOREIGN COUNTRIES OF CERTAIN SPECIFIED TYPES OF EXCESS AIRCRAFT.

(a) EXPANSION OF TRANSFER REQUIREMENT.—Section 2581 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking ''UH–1 Huey helicopter or AH–1 Cobra helicopter'' and inserting ''UH–1 Huey aircraft, AH–1 Cobra aircraft, T–2 Buckeye aircraft, or T–37 Tweet aircraft''; and

(2) by striking ''helicopter'' each subsequent place it appears in such section and inserting ''aircraft''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§2581. Specified excess aircraft: requirements for transfer to foreign countries''.

(2) The item relating to such section in the table of sections at the beginning of chapter 153 of such title is amended to read as follows:

''2581. Specified excess aircraft: requirements for transfer to foreign countries.''.

SEC. 1208. LIMITATION ON NUMBER OF UNITED STATES MILITARY PERSONNEL IN COLOMBIA.

(a) LIMITATION.—None of the funds available to the Department of Defense for any fiscal year may be used to support or maintain more than 500 members of the Armed Forces on duty in the Republic of Colombia at any time.

(b) EXCLUSION OF CERTAIN MEMBERS.—For purposes of determining compliance with the limitation in subsection (a), the Secretary of Defense may exclude the following military personnel:

(1) A member of the Armed Forces in the Republic of Colombia for the purpose of rescuing or retrieving United States military or civilian Government personnel, except that the period for which such a member may be so excluded may not exceed 30 days unless expressly authorized by law.

(2) A member of the Armed Forces assigned to the United States Embassy in Colombia as an attaché, as a member of the security assistance office, or as a member of the Marine Corps security contingent.

(3) A member of the Armed Forces in Colombia to participate in relief efforts in responding to a natural disaster.

(4) Nonoperational transient military personnel.

(5) A member of the Armed Forces making a port call from a military vessel in Colombia.

(c) NATIONAL SECURITY WAIVER.—(1) The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such waiver is in the national security interest of the United States.

(2) The Secretary shall notify the congressional defense committees not later 15 days after the date of the exercise of the waiver authority under paragraph (1).

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2004 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term ''fiscal year 2004 Cooperative Threat Reduction funds'' means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $450,800,000 authorized to be appropriated to the Department of Defense for fiscal year 2004 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $86,400,000.

(2) For strategic nuclear arms elimination in Ukraine, $3,900,000.

(3) For nuclear weapons transportation security in Russia, $23,200,000.

(4) For nuclear weapons storage security in Russia, $48,000,000.

(5) For activities designated as Other Program Support, $13,100,000.

(6) For defense and military contacts, $11,100,000.

(7) For chemical weapons destruction in Russia, $171,500,000.

(8) For biological weapons proliferation prevention in the former Soviet Union, $54,200,000.

(9) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $39,400,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2004 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (9) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the

funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2004 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2004 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. LIMITATION ON USE OF FUNDS UNTIL CERTAIN PERMITS OBTAINED.

(a) LIMITATION ON USE OF FUNDS.—With respect to a new project or an incomplete project carried out by the Department of Defense under Cooperative Threat Reduction programs, not more than 35 percent of the total costs of the project may be obligated or expended from Cooperative Threat Reduction funds for any fiscal year until—

(1) the Secretary of Defense determines—

(A) in the case of a new project, the number and type of permits that may be required for the lifetime of the project in the proposed location or locations of the project; and

(B) in the case of an incomplete project, the number and type of permits that may be required for the remaining lifetime of the project; and

(2) the government of the state of the former Soviet Union in which the project is being or is proposed to be carried out obtains and transmits copies of all such permits to the Department of Defense.

(b) DEFINITIONS.—In this section, with respect to a project under Cooperative Threat Reduction programs:

(1) NEW PROJECT.—The term ''new project'' means a project for which no funds have been obligated or expended as of the date of the enactment of this Act.

(2) INCOMPLETE PROJECT.—The term ''incomplete project'' means a project for which funds have been obligated or expended before the date of the enactment of this Act and which is not completed as of such date.

(3) PERMIT.—The term ''permit'' means any local or national permit for development, general construction, environmental, land use, or other purposes that is required in the state of the former Soviet Union in which the project is being or is proposed to be carried out.

SEC. 1304. LIMITATION ON USE OF FUNDS FOR BIOLOGICAL RESEARCH IN THE FORMER SOVIET UNION.

Of the funds authorized to be appropriated for biological weapons proliferation prevention pursuant to section 1302, no funds may be obligated for cooperative biodefense research or bioattack early warning and preparedness under a Cooperative Threat Reduction program at a site in a state of the former Soviet Union until the Secretary of Defense notifies Congress that—

(1) the Secretary has determined, through access to the site, that no biological weapons research prohibited by international law is being conducted at the site;

(2) the Secretary has assessed the vulnerability of the site to external or internal attempts to exploit or obtain dangerous pathogens illicitly; and

(3) the Secretary has begun to implement appropriate security measures at the site to reduce that vulnerability and to prevent the diversion of dangerous pathogens from legitimate research.

SEC. 1305. AUTHORITY AND FUNDS FOR NONPROLIFERATION AND DISARMAMENT.

The Secretary of Defense is authorized to transfer $50,000,000 in prior year Cooperative Threat Reduction funds from the Department of Defense to the Department of State Nonproliferation and Disarmament Fund for disarmament and nonproliferation purposes outside the territory of the former Soviet Union.

SEC. 1306. REQUIREMENT FOR ON-SITE MANAGERS.

(a) ON-SITE MANAGER REQUIREMENT.—Before obligating any Cooperative Threat Reduction funds for a project described in subsection (b), the Secretary of Defense shall appoint a United States Federal Government employee as an on-site manager.

(b) PROJECTS COVERED.—Subsection (a) applies to a project—

(1) to be located in a state of the former Soviet Union;

(2) which involves dismantlement, destruction, or storage facilities, or construction of a facility; and

(3) with respect to which the total contribution by the Department of Defense is expected to exceed $25,000,000.

(c) DUTIES OF ON-SITE MANAGER.—The on-site manager appointed under subsection (a) shall—

(1) develop, in cooperation with representatives from governments of countries participating in the project, a list of those steps or activities critical to achieving the project's disarmament or nonproliferation goals;

(2) establish a schedule for completing those steps or activities;

(3) meet with all participants to seek assurances that those steps or activities are being completed on schedule; and

(4) suspend United States participation in a project when a non-United States participant fails to complete a scheduled step or activity on time, unless directed by the Secretary of Defense to resume United States participation.

(d) STEPS OR ACTIVITIES.—Steps or activities referred to in subsection (c)(1) are those activities that, if not completed, will prevent a project from achieving its disarmament or nonproliferation goals, including, at a minimum, the following:

(1) Identification and acquisition of permits (as defined in section 1303(b)).

(2) Verification that the items, substances, or capabilities to be dismantled, secured, or otherwise modified are available for dismantlement, securing, or modification.

(3) Timely provision of financial, personnel, management, transportation, and other resources.

(e) NOTIFICATION TO CONGRESS.—In any case in which the Secretary of Defense directs an on-site manager to resume United States participation in a project under subsection (c)(4), the Secretary shall concurrently notify Congress of such direction.

(f) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

SEC. 1307. PROVISIONS RELATING TO FUNDING FOR CHEMICAL WEAPONS DESTRUCTION FACILITY IN RUSSIA.

(a) INAPPLICABILITY OF LIMITATION ON USE OF FUNDS.—(1) The conditions described in section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) shall not apply to the obligation and expenditure of funds available for obligation during fiscal year 2004 for the planning, design, or construction of a chemical weapons destruction facility in Russia if the President submits to Congress a written certification that includes—

(A) a statement as to why waiving the conditions is important to the national security interests of the United States;

(B) a full and complete justification for exercising this waiver; and

(C) a plan to promote a full and accurate disclosure by Russia regarding the size, content, status, and location of its chemical weapons stockpile.

(2) The authority under paragraph (1) shall expire on September 30, 2004.

(b) AVAILABILITY OF FUNDS.—(1) Except as provided in paragraph (2), of the funds that may be obligated for a chemical weapons destruction facility in Russia as specified in section 1302(a)(7), the Secretary of Defense may not obligate an amount greater than two times the amount obligated by Russia and any other state for the planning, design, construction, or operation of a chemical weapons destruction facility in Russia.

(2) Of the funds that may be obligated for a chemical weapons destruction facility in Russia as specified in section 1302(a)(7), $71,500,000 shall be available for obligation on and after October 1, 2003.

TITLE XIV—SERVICES ACQUISITION REFORM

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Services Acquisition Reform Act of 2003''.

SEC. 1402. EXECUTIVE AGENCY DEFINED.

In this title, the term ''executive agency'' has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)), unless specifically stated otherwise.

Subtitle A—Acquisition Workforce and Training

SEC. 1411. DEFINITION OF ACQUISITION.

Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following:

''(16) The term 'acquisition'—

''(A) means the process of acquiring, with appropriated funds, by contract for purchase or lease, property or services (including construction) that support the missions and goals of an executive agency, from the point at which the requirements of the executive agency are established in consultation with the chief acquisition officer of the executive agency; and

''(B) includes—

''(i) the process of acquiring property or services that are already in existence, or that must be created, developed, demonstrated, and evaluated;

''(ii) the description of requirements to satisfy agency needs;

''(iii) solicitation and selection of sources;

''(iv) award of contracts;

''(v) contract performance;

''(vi) contract financing;

''(vii) management and measurement of contract performance through final delivery and payment; and

''(viii) technical and management functions directly related to the process of fulfilling agency requirements by contract.''.

SEC. 1412. ACQUISITION WORKFORCE TRAINING FUND.

(a) PURPOSES.—The purposes of this section are to ensure that the Federal acquisition workforce—

(1) adapts to fundamental changes in the nature of Federal Government acquisition of property and services associated with the changing roles of the Federal Government; and

(2) acquires new skills and a new perspective to enable it to contribute effectively in the changing environment of the 21st century.

(b) ESTABLISHMENT OF FUND.—Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by adding at the end of subsection (h) the following new paragraph:

''(3) ACQUISITION WORKFORCE TRAINING FUND.—(A) The Administrator of General Services shall establish an acquisition workforce training fund. The Administrator shall manage the fund through the Federal Acquisition Institute to support the training of the acquisition workforce of the executive agencies other than the Department of Defense. The Administrator shall consult with the Administrator for Federal Procurement Policy in managing the fund.

''(B) There shall be credited to the acquisition workforce training fund 5 percent of the fees collected by executive agencies (other than the Department of Defense) under the following contracts:

''(i) Governmentwide task and delivery-order contracts entered into under sections 303H and 303I of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h and 253i).

''(ii) Governmentwide contracts for the acquisition of information technology as defined in section 11101 of title 40, United States Code, and multiagency acquisition contracts for such technology authorized by section 11314 of such title.

''(iii) Multiple-award schedule contracts entered into by the Administrator of General Services.

''(C) The head of an executive agency that administers a contract described in subparagraph (B) shall remit to the General Services Administration the amount required to be credited to the fund with respect to such contract at the end of each quarter of the fiscal year.

''(D) The Administrator of General Services, through the Office of Federal Acquisition Policy, shall ensure that funds collected for training under this section are not used for any purpose other than the purpose specified in subparagraph (A).

''(E) Amounts credited to the fund shall be in addition to funds requested and appropriated for education and training referred to in paragraph (1).

''(F) Amounts credited to the fund shall remain available until expended.''.

(c) EXCEPTION.—This section and the amendments made by this section shall not apply to the acquisition workforce of the Department of Defense.

SEC. 1413. ACQUISITION WORKFORCE RECRUITMENT PROGRAM.

(a) AUTHORITY TO CARRY OUT PROGRAM.—For purposes of sections 3304, 5333, and 5753 of title 5, United States Code, the head of a department or agency of the United States (including the Secretary of Defense) may determine that certain Federal acquisition positions are ''shortage category'' positions in order to recruit and appoint directly to positions of employment in the department or agency highly qualified persons, such as any person who—

(1) holds a bachelor's degree from an accredited institution of higher education;

(2) holds, from an accredited law school or an accredited institution of higher education—

(A) a law degree; or

(B) a masters or equivalent degree in business administration, public administration, or systems engineering; or

(3) has significant experience with commercial acquisition practices, terms, and conditions.

(b) REQUIREMENTS.—The exercise of authority to take a personnel action under this section shall be subject to policies prescribed by the Office of Personnel Management that govern direct recruitment, including policies requiring appointment of a preference eligible who satisfies the qualification requirements.

(c) TERMINATION OF AUTHORITY.—The head of a department or agency may not appoint a person to a position of employment under this section after September 30, 2007.

(d) REPORT.—Not later than March 31, 2007, the Administrator for Federal Procurement Policy shall submit to Congress a report on the implementation of this section. The report shall include—

(1) the Administrator's assessment of the efficacy of the exercise of the authority provided in this section in attracting employees with unusually high qualifications to the acquisition workforce; and

(2) any recommendations considered appropriate by the Administrator on whether the authority to carry out the program should be extended.

SEC. 1414. ARCHITECTURAL AND ENGINEERING ACQUISITION WORKFORCE.

The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Personnel Management, shall develop and implement a plan to ensure that the Federal Government maintains the necessary capability with respect to the acquisition of architectural and engineering services to—

(1) ensure that Federal Government employees have the expertise to determine agency requirements for such services;

(2) establish priorities and programs (including acquisition plans);

(3) establish professional standards;

(4) develop scopes of work; and

(5) award and administer contracts for such services.

Subtitle B—Adaptation of Business Acquisition Practices

PART I—ADAPTATION OF BUSINESS MANAGEMENT PRACTICES

SEC. 1421. CHIEF ACQUISITION OFFICERS.

(a) APPOINTMENT OF CHIEF ACQUISITION OFFICERS.—(1) Section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) is amended to read as follows:

''SEC. 16. CHIEF ACQUISITION OFFICERS.

''(a) ESTABLISHMENT OF AGENCY CHIEF ACQUISITION OFFICERS.—The head of each executive agency (other than the Department of Defense) shall appoint or designate a non-career employee as Chief Acquisition Officer for the agency, who shall—

''(1) have acquisition management as that official's primary duty; and

''(2) advise and assist the head of the executive agency and other agency officials to ensure that the mission of the executive agency is achieved through the management of the agency's acquisition activities.

''(b) AUTHORITY AND FUNCTIONS OF AGENCY CHIEF ACQUISITION OFFICERS.—The functions of each Chief Acquisition Officer shall include—

''(1) monitoring the performance of acquisition activities and acquisition programs of the executive agency, evaluating the performance of those programs on the basis of applicable performance measurements, and advising the head of the executive agency regarding the appropriate business strategy to achieve the mission of the executive agency;

''(2) increasing the use of full and open competition in the acquisition of property and services by the executive agency by establishing policies, procedures, and practices that ensure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government's requirements (including performance and delivery schedules) at the best value considering the nature of the property or service procured;

''(3) making acquisition decisions consistent with all applicable laws and establishing clear lines of authority, accountability, and responsibility for acquisition decisionmaking within the executive agency;

''(4) managing the direction of acquisition policy for the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency;

''(5) developing and maintaining an acquisition career management program in the executive agency to ensure that there is an adequate professional workforce; and

''(6) as part of the strategic planning and performance evaluation process required under section 306 of title 5, United States Code, and sections 1105(a)(28), 1115, 1116, and 9703 of title 31, United States Code—

''(A) assessing the requirements established for agency personnel regarding knowledge and skill in acquisition resources management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

''(B) in order to rectify any deficiency in meeting such requirements, developing strategies and specific plans for hiring, training, and professional development; and

''(C) reporting to the head of the executive agency on the progress made in improving acquisition management capability.''.

(2) The item relating to section 16 in the table of contents in section 1(b) of such Act is amended to read as follows:

''Sec. 16. Chief Acquisition Officers.''.

(b) REFERENCES TO SENIOR PROCUREMENT EXECUTIVE.—

(1) AMENDMENT TO THE OFFICE OF FEDERAL POLICY ACT.—(A) Subsections (a)(2)(A) and (b) of section 20 of the Office of Federal Procurement Policy Act (41 U.S.C. 418(a)(2)(A), (b)) are amended by striking ''senior procurement executive'' each place it appears and inserting ''Chief Acquisition Officer''.

(B) Subsection (c)(2)(A)(ii) of section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425(c)(2)(A)(ii)) is amended by striking ''senior procurement executive'' and inserting ''Chief Acquisition Officer''.

(C) Subsection (c) of section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433(c)) is amended—

(i) by striking ''SENIOR PROCUREMENT EXECUTIVE'' in the heading and inserting ''CHIEF ACQUISITION OFFICER''; and

(ii) by striking ''senior procurement executive'' each place it appears and inserting ''Chief Acquisition Officer''.

(2) AMENDMENT TO TITLE III OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Sections 302C(b) and 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252c, 253) are amended by striking ''senior procurement executive'' each place it appears and inserting ''Chief Acquisition Officer''.

(3) AMENDMENT TO TITLE 10, UNITED STATES CODE.—The following sections of title 10, United States Code are amended by striking ''senior procurement executive'' each place it appears and inserting ''Chief Acquisition Officer'':

(A) Section 133(c)(1).

(B) Subsections (d)(2)(B) and (f)(1) of section 2225.

(C) Section 2302c(b).

(D) Section 2304(f)(1)(B)(iii).

(E) Section 2359a(i).

(4) REFERENCES.—Any reference to a senior procurement executive of a department or agency of the United States in any other provision of law or regulation, document, or record of the United States shall be deemed to be a reference to the Chief Acquisition Officer of the department or agency.

(c) TECHNICAL CORRECTION.—Section 1115(a) of title 31, United States Code, is amended by striking ''section 1105(a)(29)'' and inserting ''section 1105(a)(28)''.

SEC. 1422. CHIEF ACQUISITION OFFICERS COUNCIL.

(a) ESTABLISHMENT OF COUNCIL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by inserting after section 16 the following new section:

''SEC. 16A. CHIEF ACQUISITION OFFICERS COUNCIL.

''(a) ESTABLISHMENT.—There is established in the executive branch a Chief Acquisition Officers Council.

''(b) MEMBERSHIP.—The members of the Council shall be as follows:

''(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as Chairman of the Council.

''(2) The Administrator for Federal Procurement Policy.

''(3) The chief acquisition officer of each executive agency.

''(4) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

''(5) Any other officer or employee of the United States designated by the Chairman.

''(c) LEADERSHIP; SUPPORT.—(1) The Administrator for Federal Procurement Policy shall lead the activities of the Council on behalf of the Deputy Director for Management.

''(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

''(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

''(3) The Administrator of General Services shall provide administrative and other support for the Council.

''(d) PRINCIPAL FORUM.—The Council is designated the principal interagency forum for monitoring and improving the Federal acquisition system.

''(e) FUNCTIONS.—The Council shall perform functions that include the following:

''(1) Develop recommendations for the Director of the Office of Management and Budget on Federal acquisition policies and requirements.

''(2) Share experiences, ideas, best practices, and innovative approaches related to Federal acquisition.

''(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Federal acquisition.

''(4) Promote effective business practices that ensure the timely delivery of best value products to the Federal Government and achieve appropriate public policy objectives.

''(5) Further integrity, fairness, competition, openness, and efficiency in the Federal acquisition system.

''(6) Work with the Office of Personnel Management to assess and address the hiring, training, and professional development needs of the Federal Government related to acquisition.

''(7) Work with the Administrator and the Federal Acquisition Regulatory Council to promote the business practices referred to in paragraph (4) and other results of the functions carried out under this subsection.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 16 the following new item:

''Sec. 16A. Chief Acquisition Officers Council.''.

SEC. 1423. STATUTORY AND REGULATORY REVIEW.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall establish an advisory panel to review laws and regulations regarding the use of commercial practices, performance-based contracting, the performance of acquisition functions across agency lines of responsibility, and the use of Governmentwide contracts.

(b) MEMBERSHIP.—The panel shall be composed of at least nine individuals who are recognized experts in acquisition law and Government acquisition policy. In making appointments to the panel, the Administrator shall—

(1) consult with the Secretary of Defense, the Administrator of General Services, the Committees on Armed Services and Government Reform of the House of Representatives, and the Committees on Armed Services and Governmental Affairs of the Senate, and

(2) ensure that the members of the panel reflect the diverse experiences in the public and private sectors.

(c) DUTIES.—The panel shall—

(1) review all Federal acquisition laws and regulations with a view toward ensuring effective and appropriate use of commercial practices and performance-based contracting; and

(2) make any recommendations for the repeal or amendment of such laws or regulations that are considered necessary as a result of such review—

(A) to eliminate any provisions in such laws or regulations that are unnecessary for the effective, efficient, and fair award and administration of contracts for the acquisition by the Federal Government of goods and services;

(B) to ensure the continuing financial and ethical integrity of acquisitions by the Federal Government; and

(C) to protect the best interests of the Federal Government.

(d) REPORT.—Not later than one year after the establishment of the panel, the panel shall submit to the Administrator and to the Committees on Armed Services and Government Reform of the House of Representatives and the Committees on Armed Services and Governmental Affairs of the Senate a report containing a detailed statement of the findings, conclusions, and recommendations of the panel.

PART II—OTHER ACQUISITION IMPROVEMENTS

SEC. 1426. EXTENSION OF AUTHORITY TO CARRY OUT FRANCHISE FUND PROGRAMS.

Section 403(f) of the Federal Financial Management Act of 1994 (Public Law 103–356; 31 U.S.C. 501 note) is amended by striking ''October 1, 2003'' and inserting ''October 1, 2006''.

SEC. 1427. AGENCY ACQUISITION PROTESTS.

(a) DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2305a the following new section:

''§ 2305b. Protests

''(a) IN GENERAL.—An interested party may protest an acquisition of supplies or services by an agency based on an alleged violation of an acquisition law or regulation, and a decision regarding such alleged violation shall be made by the agency in accordance with this section.

''(b) RESTRICTION ON CONTRACT AWARD PENDING DECISION.—(1) Except as provided in paragraph (2), a contract may not be awarded by an agency after a protest concerning the acquisition has been submitted under this section and while the protest is pending.

''(2) The head of the acquisition activity responsible for the award of the contract may authorize the award of a contract, notwithstanding pending protest under this section, upon making a written finding that urgent and compelling circumstances do not allow for waiting for a decision on the protest.

''(c) RESTRICTION ON CONTRACT PERFORMANCE PENDING DECISION.—(1) Except as provided in paragraph (2), performance of a contract may not be authorized (and performance of the contract shall cease if performance has already begun) in any case in which a protest of the contract award is submitted under this section before the later of—

''(A) the date that is 10 days after the date of contract award; or

''(B) the date that is five days after an agency debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required, under section 2305(b)(5) of this title.

''(2) The head of the acquisition activity responsible for the award of a contract may authorize performance of the contract notwithstanding a pending protest under this section upon making a written finding that urgent and compelling circumstances do not allow for waiting for a decision on the protest.

''(d) DEADLINE FOR DECISION.—The head of an agency shall issue a decision on a protest under this section not later than the date that is 20 working days after the date on which the protest is submitted to such head of an agency.

''(e) CONSTRUCTION.—Nothing in this section shall affect the right of an interested party to file a protest with the Comptroller General under subchapter V of chapter 35 of title 31 or in the United States Court of Federal Claims.

''(f) DEFINITIONS.—In this section, the terms 'protest' and 'interested party' have the meanings given such terms in section 3551 of title 31.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2305a the following new item:

''2305b. Protests.''.

(b) OTHER AGENCIES.—Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 303M (41 U.S.C. 253m) the following new section:

''SEC. 303N. PROTESTS.

''(a) IN GENERAL.—An interested party may protest an acquisition of supplies or services by an executive agency based on an alleged violation of an acquisition law or regulation, and a decision regarding such alleged violation shall be made by the agency in accordance with this section.

''(b) RESTRICTION ON CONTRACT AWARD PENDING DECISION.—(1) Except as provided in paragraph (2), a contract may not be awarded by an agency after a protest concerning the acquisition has been submitted under this section and while the protest is pending.

''(2) The head of the acquisition activity responsible for the award of a contract may authorize the award of the contract, notwithstanding a pending protest under this section, upon making a written finding that urgent and compelling circumstances do not allow for waiting for a decision on the protest.

''(c) RESTRICTION ON CONTRACT PERFORMANCE PENDING DECISION.—(1) Except as provided in paragraph (2), performance of a contract may not be authorized (and performance of the contract shall cease if performance has already begun) in any case in which a protest of the contract award is submitted under this section before the later of—

''(A) the date that is 10 days after the date of contract award; or

''(B) the date that is five days after an agency debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required, under section 303B(e) of this title.

''(2) The head of the acquisition activity responsible for the award of a contract may authorize performance of the contract notwithstanding a pending protest under this section upon making a written finding that urgent and compelling circumstances do not allow for waiting for a decision on the protest.

''(d) DEADLINE FOR DECISION.—The head of an executive agency shall issue a decision on a protest under this section not later than the date that is 20 working days after the date on which the protest is submitted to the executive agency.

''(e) CONSTRUCTION.—Nothing in this section shall affect the right of an interested party to file a protest with the Comptroller General under subchapter V of chapter 35 of title 31, United States Code, or in the United States Court of Federal Claims.

''(f) DEFINITIONS.—In this section, the terms 'protest' and 'interested party' have the meanings given such terms in section 3551 of title 31, United States Code.''.

(c) CONFORMING AMENDMENT.—Section 3553(d)(4) of title 31, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) by striking the period at the end of subparagraph (B) and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(C) in the case of a protest of the same matter regarding such contract that is submitted under section 2305b of title 10 or section 303N of the Federal Property and Administrative Services Act of 1949, the date that is 5 days after the date on which a decision on that protest is issued.''.

SEC. 1428. IMPROVEMENTS IN CONTRACTING FOR ARCHITECTURAL AND ENGINEERING SERVICES.

(a) TITLE 10.—Section 2855(b) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking ''$85,000'' and inserting ''$300,000''; and

(2) by adding at the end the following new paragraph:

''(4) The selection and competition requirements described in subsection (a) shall apply to any contract for architectural and engineering services (including surveying and mapping services) that is entered into by the head of an agency (as such term is defined in section 2302 of this title).''.

(b) ARCHITECTURAL AND ENGINEERING SERVICES.—Architectural and engineering services (as defined in section 1102 of title 40, United States Code) shall not be offered under multiple-award schedule contracts entered into by the Administrator of General Services or under Governmentwide task and delivery-order contracts entered into under sections 2304a and 2304b of title 10, United States Code, or sections 303H and 303I of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h and 253i) unless such services—

(1) are performed under the direct supervision of a professional engineer licensed in a State; and

(2) are awarded in accordance with the selection procedures set forth in chapter 11 of title 40, United States Code.

SEC. 1429. AUTHORIZATION OF TELECOMMUTING FOR FEDERAL CONTRACTORS.

(a) AMENDMENT TO THE FEDERAL ACQUISITION REGULATION.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 405 and 421) to permit telecommuting by employees of Federal Government contractors in the performance of contracts entered into with executive agencies.

(b) CONTENT OF AMENDMENT.—The regulation issued pursuant to subsection (a) shall, at a minimum, provide that solicitations for the acquisition of property or services may not set forth any requirement or evaluation criteria that would—

(1) render an offeror ineligible to enter into a contract on the basis of the inclusion of a plan of the offeror to permit the offeror's employees to telecommute; or

(2) reduce the scoring of an offer on the basis of the inclusion in the offer of a plan of the offeror to permit the offeror's employees to telecommute, unless the contracting officer concerned first—

(A) determines that the requirements of the agency, including the security requirements of the agency, cannot be met if the telecommuting is permitted; and

(B) documents in writing the basis for that determination.

(c) GAO REPORT.—Not later than one year after the date on which the regulation required by subsection (a) is published in the Federal Register, the Comptroller General shall submit to Congress—

(1) an evaluation of—

(A) the conformance of the regulations with law; and

(B) the compliance by executive agencies with the regulations; and

(2) any recommendations that the Comptroller General considers appropriate.

(d) DEFINITION.—In this section, the term ''executive agency'' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

Subtitle C—Contract Incentives

SEC. 1431. INCENTIVES FOR CONTRACT EFFICIENCY.

(a) INCENTIVES FOR CONTRACT EFFICIENCY.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''SEC. 41. INCENTIVES FOR EFFICIENT PERFORMANCE OF SERVICES CONTRACTS.

''(a) OPTIONS FOR SERVICES CONTRACTS.—An option included in a contract for services to extend the contract by one or more periods may provide that it be exercised on the basis of exceptional performance by the contractor. A contract that contains such an option provision shall include performance standards for measuring performance under the contract, and to the maximum extent practicable be performance-based. Such option provision shall only be exercised in accordance with applicable provisions of law or regulation that set forth restrictions on the duration of the contract containing the option.

''(b) DEFINITION OF PERFORMANCE-BASED.—In this section, the term 'performance-based', with respect to a contract, task order, or contracting, means that the contract, task order, or contracting, respectively, includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes.''.

(b) CLERICAL AND TECHNICAL AMENDMENTS.—(1) The table of contents in section 1(b) of such Act is amended by striking the last item and inserting the following:

''Sec. 40. Protection of constitutional rights of contractors.

''Sec. 41. Incentives for efficient performance of services contracts.''.

(2) The section before section 41 of such Act (as added by subsection (a)) is redesignated as section 40.

Subtitle D—Acquisitions of Commercial Items

SEC. 1441. ADDITIONAL INCENTIVE FOR USE OF PERFORMANCE-BASED CONTRACTING FOR SERVICES.

(a) OTHER CONTRACTS.—Section 41 of the Office of Federal Procurement Policy Act, as added by section 1431, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

''(b) INCENTIVE FOR USE OF PERFORMANCE-BASED SERVICES CONTRACTS.—(1) A performance-based contract for the procurement of services entered into by an executive agency or a performance-based task order for services issued by an executive agency may be treated as a contract for the procurement of commercial items if—

''(A) the contract or task order sets forth specifically each task to be performed and, for each task—

''(i) defines the task in measurable, mission-related terms; and

''(ii) identifies the specific end products or output to be achieved; and

''(B) the source of the services provides similar services to the general public under terms and conditions similar to those offered to the Federal Government.

''(2) The regulations implementing this subsection shall require agencies to collect and maintain reliable data sufficient to identify the contracts or task orders treated as contracts for commercial items using the authority of this subsection. The data may be collected using the Federal Procurement Data System or other reporting mechanism.

''(3) Not later than two years after the date of the enactment of this subsection, the Director of the Office of Management and Budget shall prepare and submit to the Committees on Governmental Affairs and on Armed Services of the Senate and the Committees on Government Reform and on Armed Services of the House of Representatives a report on the contracts or task orders treated as contracts for commercial items using the authority of this subsection. The report shall include data on the use of such authority both government-wide and for each department and agency.

''(4) The authority under this subsection shall expire 10 years after the date of the enactment of this subsection.''.

(b) CENTER OF EXCELLENCE IN SERVICE CONTRACTING.—Not later than 180 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall establish a center of excellence in contracting for services. The center of excellence shall assist the acquisition community by identifying, and serving as a clearinghouse for, best practices in contracting for services in the public and private sectors.

(c) REPEAL OF SUPERSEDED PROVISION.—Subsection (b) of section 821 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–218) is repealed.

SEC. 1442. AUTHORIZATION OF ADDITIONAL COMMERCIAL CONTRACT TYPES.

Section 8002(d) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3387; 41 U.S.C. 264 note) is amended—

(1) in paragraph (1), by striking ''and'';

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(3) authority for use of a time and materials contract or a labor-hour contract for the procurement of commercial services that are commonly sold to the general public through such contracts.''

SEC. 1443. CLARIFICATION OF COMMERCIAL SERVICES DEFINITION.

Subparagraph (F) of section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(F)) is amended—

(1) by striking ''catalog or''; and

(2) by inserting ''or specific outcomes to be achieved'' after ''performed''.

SEC. 1444. DESIGNATION OF COMMERCIAL BUSINESS ENTITIES.

(a) IN GENERAL.—Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), as amended by section 1411, is further amended—

(1) by adding at the end of paragraph (12) the following new subparagraph:

''(I) Items or services produced or provided by a commercial entity.''; and

(2) by adding at the end the following new paragraph:

''(17) The term 'commercial entity' means any enterprise whose primary customers are other than the Federal Government. In order to qualify as a commercial entity, at least 90 percent (in dollars) of the sales of the enterprise over the past three business years must have been made to private sector entities.''.

(b) COLLECTION OF DATA.—Regulations implementing the amendments made by subsection (a) shall require agencies to collect and maintain reliable data sufficient to identify the contracts entered into or task orders awarded for items or services produced or provided by a commercial entity. The data may be collected using the Federal Procurement Data System or other reporting mechanism.

(c) OMB REPORT.—Not later than two years after the date of the enactment of this subsection, the Director of the Office of Management and Budget shall prepare and submit to

the Committees on Governmental Affairs and on Armed Services of the Senate and the Committees on Government Reform and on Armed Services of the House of Representatives a report on the contracts entered into or task orders awarded for items or services produced or provided by a commercial entity. The report shall include data on the use of such authority both government-wide and for each department and agency.

(d) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall review the implementation of the amendments made by subsection (a) to evaluate the effectiveness of such implementation in increasing the availability of items and services to the Federal Government at fair and reasonable prices.

Subtitle E—Other Matters

SEC. 1451. AUTHORITY TO ENTER INTO CERTAIN PROCUREMENT-RELATED TRANSACTIONS AND TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

"SEC. 318. AUTHORITY TO ENTER INTO CERTAIN TRANSACTIONS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The head of an executive agency who engages in basic research, applied research, advanced research, and development projects that—

''(A) are necessary to the responsibilities of such official's executive agency in the field of research and development, and

''(B) have the potential to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack,

may exercise the same authority (subject to the same restrictions and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code, except for subsections (b) and (f) of such section 2371.

''(2) PROTOTYPE PROJECTS.—The head of an executive agency may, under the authority of paragraph (1), carry out prototype projects that meet the requirements of subparagraphs (A) and (B) of paragraph (1) in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note). In applying the requirements and conditions of that section 845—

''(A) subsection (c) of that section shall apply with respect to prototype projects carried out under this paragraph; and

''(B) the Director of the Office of Management and Budget shall perform the functions of the Secretary of Defense under subsection (d) of that section.

''(3) APPLICABILITY TO SELECTED EXECUTIVE AGENCIES.—

''(A) OMB AUTHORIZATION REQUIRED.—The head of an executive agency may exercise authority under this subsection only if authorized by the Director of the Office of Management and Budget to do so.

''(B) RELATIONSHIP TO AUTHORITY OF DEPARTMENT OF HOMELAND SECURITY.—The authority under this subsection shall not apply to the Secretary of Homeland Security while section 831 of the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2224) is in effect.

''(b) ANNUAL REPORT.—The annual report of the head of an executive agency that is required under subsection (h) of section 2371 of title 10, United States Code, as applied to the head of the executive agency by subsection (a), shall be submitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''(c) REGULATIONS.—The Director of the Office of Management and Budget shall prescribe regulations to carry out this section.''.

SEC. 1452. AUTHORITY TO MAKE INFLATION ADJUSTMENTS TO SIMPLIFIED ACQUISITION THRESHOLD.

Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended by inserting before the period at the end the following: '', except that such amount may be adjusted by the Administrator every five years to the amount equal to $100,000 in constant fiscal year 2003 dollars (rounded to the nearest $10,000)''.

SEC. 1453. TECHNICAL CORRECTIONS RELATED TO DUPLICATIVE AMENDMENTS.

(a) REPEAL OF SUPERSEDED SUBCHAPTER AND RELATED CONFORMING AMENDMENTS.—(1) Subchapter II of chapter 35 of title 44, United States Code, is repealed.

(2) Subchapter III of such chapter is redesignated as subchapter II.

(3) Section 3549 of title 44, United States Code, is amended by striking the sentence beginning with ''While this subchapter''.

(4) The table of sections at the beginning of chapter 35 of title 44, United States Code, is amended—

(A) by striking the items relating to sections 3531 through 3538; and

(B) by striking the heading ''SUBCHAPTER III—INFORMATION SECURITY''.

(5) Section 2224a of title 10, United States Code, is repealed, and the table of sections at the beginning of chapter 131 of such title is amended by striking the item relating to such section.

(b) CONFORMING AMENDMENTS RELATED TO REPEALS OF SHARE-IN-SAVINGS AND SOLUTIONS-BASED CONTRACTING PILOT PROGRAMS.—(1) Chapter 115 of title 40, United States Code, is repealed.

(2) The table of chapters at the beginning of subtitle III of such title is amended by striking the item relating to chapter 115.

(c) AMENDMENTS MADE BY E-GOVERNMENT ACT MADE APPLICABLE.—The following provisions of law shall read as if the amendments made by title X of the Homeland Security Act of 2002 (Public Law 107–296) to such provisions did not take effect:

(1) Section 2224 of title 10, United States Code.

(2) Sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4).

(3) Sections 11331 and 11332 of title 40, United States Code.

(4) Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 44 U.S.C. 3531 note).

(5) Sections 3504(g), 3505, and 3506(g) of title 44, United States Code.

(d) CORRECTION OF CROSS REFERENCE.—Section 2224(c) of title 10, United States Code, as amended by section 301(c)(1)(B)(iii) of the E-Government Act of 2002 (Public Law 107–347; 116 Stat. 2955), is amended by striking ''subchapter III'' and inserting ''subchapter II''.

SEC. 1454. PROHIBITION ON USE OF QUOTAS.

(a) IN GENERAL.—After the date of enactment of this Act, the Office of Management and Budget may not establish, apply, or enforce any numerical goal, target, or quota for subjecting the employees of a department or agency of the Government to public-private competitions or converting such employees or the work performed by such employees to contractor performance under Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy unless the goal, target, or quota is based on considered research and sound analysis of past activities and is consistent with the stated mission of the department or agency.

(b) LIMITATIONS.—Subsection (a) shall not—

(1) otherwise affect the implementation or enforcement of the Government Performance and Results Act of 1993 (107 Stat. 285); or

(2) prevent any agency of the Executive branch from subjecting work performed by Federal employees or private contractors to public-private competition or conversions.

SEC. 1455. APPLICABILITY OF CERTAIN PROVISIONS TO SOLE SOURCE CONTRACTS FOR GOODS AND SERVICES TREATED AS COMMERCIAL ITEMS.

(a) IN GENERAL.—Notwithstanding the amendments made by subtitle D of this Act, no contract for the procurement of services or goods awarded on a sole source basis shall be exempt from—

(1) cost accounting standards promulgated pursuant to section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422); and

(2) cost or pricing data requirements (commonly referred to as truth in negotiating) under section 2306a of title 10, United States Code, and section 304A of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b).

(b) LIMITATION.—This section shall not apply to any contract in an amount not greater than $15,000,000.

SEC. 1456. PUBLIC DISCLOSURE OF NONCOMPETITIVE CONTRACTING FOR THE RECONSTRUCTION OF INFRASTRUCTURE IN IRAQ.

(a) DISCLOSURE REQUIRED.—

(1) PUBLICATION AND PUBLIC AVAILABILITY.—The head of an executive agency of the United States that enters into a contract for the repair, maintenance, or construction of infrastructure in Iraq without full and open competition shall publish in the Federal Register or Commerce Business Daily and otherwise make available to the public, not later than 30 days after the date on which the contract is entered into, the following information:

(A) The amount of the contract.

(B) A brief description of the scope of the contract.

(C) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(D) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(2) INAPPLICABILITY TO CONTRACTS AFTER FISCAL YEAR 2013.—Paragraph (1) does not apply to a contract entered into after September 30, 2013.

(b) CLASSIFIED INFORMATION.—

(1) AUTHORITY TO WITHHOLD.—The head of an executive agency may—

(A) withhold from publication and disclosure under subsection (a) any document that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; and

(B) redact any part so classified that is in a document not so classified before publication and disclosure of the document under subsection (a).

(2) AVAILABILITY TO CONGRESS.—In any case in which the head of an executive agency withholds information under paragraph (1), the head of such executive agency shall make available an unredacted version of the document containing that information to the chairman and ranking member of each of the following committees of Congress:

(A) The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(B) The Committees on Appropriations of the Senate and House of Representatives.

(C) Each committee that the head of the executive agency determines has legislative jurisdiction for the operations of such department or agency to which the information relates.

(c) FISCAL YEAR 2003 CONTRACTS.—This section shall apply to contracts entered into on or after October 1, 2002, except that, in the case of

a contract entered into before the date of the enactment of this Act, subsection (a) shall be applied as if the contract had been entered into on the date of the enactment of this Act.

(d) RELATIONSHIP TO OTHER DISCLOSURE LAWS.—Nothing in this section shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(e) DEFINITIONS.—In this section, the terms ''executive agency'' and ''full and open competition'' have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Military Construction Authorization Act for Fiscal Year 2004''.

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Redstone Arsenal	$5,500,000
Alaska	Fort Wainwright	$138,800,000
California	Fort Irwin	$3,350,000
Colorado	Fort Carson	$2,150,000
Georgia	Fort Benning	$34,500,000
	Fort Stewart/Hunter Army Air Field	$138,550,000
Hawaii	Helemano Military Reservation	$1,400,000
	Schofield Barracks	$128,100,000
Kansas	Fort Leavenworth	$115,000,000
	Fort Riley	$40,000,000
Kentucky	Fort Knox	$5,500,000
Louisiana	Fort Polk	$72,000,000
Maryland	Fort Meade	$9,600,000
Massachusetts	Soldier Systems Center, Natick	$5,500,000
Missouri	Fort Leonard Wood	$5,900,000
New Jersey	Naval Air Engineering Center, Lakehurst	$2,250,000
	Picatinny Arsenal	$11,800,000
New York	Fort Drum	$139,300,000
North Carolina	Fort Bragg	$163,400,000
Oklahoma	Fort Sill	$5,500,000
Texas	Fort Bliss	$5,400,000
	Fort Hood	$56,700,000
Virginia	Fort Belvoir	$7,000,000
	Fort Lee	$3,850,000
	Fort Myer	$9,000,000
Washington	Fort Lewis	$3,900,000
	Total	$1,108,500,000

(b) OUTSIDE THE UNITED STATES.—Subject to subsection (c), using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Germany	Grafenwoehr	$76,000,000
	Heidelberg	$17,000,000
	Hohenfels	$13,200,000
	Vilseck	$31,000,000
Italy	Aviano Air Base	$28,500,000
	Livorno	$22,000,000
Korea	Camp Humphreys	$191,150,000
Kwajalein	Kwajalein	$9,400,000
	Total	$388,250,000

(c) CONDITION ON PROJECTS AUTHORIZATION.—The authority of the Secretary of the Army to proceed with the projects at Camp Humphreys, Korea, referred to in the table in subsection (b), and to obligate amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2) in connection with such project, is subject to the condition that the Secretary submit to the congressional defense committees written notice in advance that the United States and the Republic of Korea have entered into an agreement to ensure the availability and use of land sufficient for such projects.

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State or Country	Installation or location	Purpose	Amount
Alaska	Fort Wainwright	140 Units	$64,000,000
Arizona	Fort Huachuca	220 Units	$41,000,000
Kansas	Fort Riley	62 Units	$16,700,000
Kentucky	Fort Knox	178 Units	$41,000,000
New Mexico	White Sands Missile Range	58 Units	$14,600,000
Oklahoma	Fort Sill	120 Units	$25,373,000
Virginia	Fort Lee	90 Units	$18,000,000
		Total:	$220,673,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $34,488,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $156,030,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $3,056,697,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $902,000,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $359,350,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $22,550,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $128,580,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $409,191,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,043,026,000.

(6) For the construction of phase 3 of a barracks complex, D Street, at Fort Richardson, Alaska, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), as amended by section 2105 of this Act, $33,000,000.

(7) For the construction of phase 3 of a barracks complex, 17th and B Streets, at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), $48,000,000.

(8) For the construction of phase 2 of a barracks complex, Capron Road, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $49,000,000.

(9) For the construction of phase 2 of a barracks complex, Range Road, at Fort Campbell, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $49,000,000.

(10) For the construction of phase 2 of a consolidated maintenance complex at Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $13,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $32,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks, Fort Stewart/Hunter Army Airfield, Georgia).

(3) $87,000,000 (the balance of the amount authorized under section 2101(a) for construction of the Lewis and Clark Instructional Facility, Fort Leavenworth, Kansas).

(4) $43,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Wheeler Army Airfield, Fort Drum, New York).

(5) $50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Bastogne Drive, Fort Bragg, North Carolina).

(6) $18,900,000 (the balance of the amount authorized under section 2101(b) for construction of a barracks complex, Vilseck, Germany).

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) MODIFICATION.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1281), as amended by section 2105 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2689), is further amended—

(1) in the item relating to Fort Richardson, Alaska, by striking ''$115,000,000'' in the amount column and inserting ''$117,000,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$1,364,750,000''.

(b) CONFORMING AMENDMENT.—Section 2104(b)(2) of that Act (115 Stat. 1284) is amended by striking ''$52,000,000'' and inserting ''$54,000,000''.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$22,230,000
California	Marine Corps Air-Ground Task Force Training Center, Twentynine Palms	$42,090,000
	Marine Corps Air Station, Miramar	$7,640,000
	Marine Corps Base, Camp Pendleton	$73,580,000
	Naval Air Facility, San Clemente Island	$18,940,000
	Naval Air Station, Lemoore	$34,510,000
	Naval Air Station, North Island	$49,240,000
	Naval Air Warfare Center, China Lake	$12,230,000
	Naval Air Warfare Center, Point Mugu, San Nicholas Island	$6,150,000
	Naval Postgraduate School, Monterey	$42,560,000
	Naval Station, San Diego	$49,710,000
Connecticut	Naval Submarine Base, New London	$3,120,000
District of Columbia	Marine Corps Barracks	$1,550,000
Florida	Blount Island (Jacksonville)	$115,711,000
	Naval Air Station, Jacksonville	$9,190,000
	Naval Air Station, Whiting Field, Milton	$4,830,000
	Naval Surface Warfare Center, Coastal Systems Station, Panama City	$9,550,000
Georgia	Strategic Weapons Facility Atlantic, Kings Bay	$11,510,000
Hawaii	Fleet and Industrial Supply Center, Pearl Harbor	$32,180,000
	Naval Magazine, Lualualei	$6,320,000
	Naval Shipyard, Pearl Harbor	$7,010,000
Illinois	Naval Training Center, Great Lakes	$137,120,000
Indiana	Naval Surface Warfare Center, Crane	$11,400,000
Maryland	Naval Air Warfare Center, Patuxent River	$28,270,000
	Naval Surface Warfare Center, Indian Head	$14,850,000
Mississippi	Naval Air Station, Meridian	$4,570,000
	Naval Station, Pascagoula	$6,100,000
Nevada	Naval Air Station, Fallon	$4,700,000
New Jersey	Naval Air Warfare Center, Lakehurst	$20,681,000
	Naval Weapons Station, Earle	$123,720,000
North Carolina	Marine Corps Air Station, New River	$6,240,000
	Marine Corps Base, Camp Lejeune	$29,450,000
Rhode Island	Naval Station, Newport	$16,140,000
	Naval Undersea Warfare Center, Newport	$10,890,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
South Carolina	Naval Weapons Station, Charleston	$2,350,000
Texas	Naval Air Station, Corpus Christi	$5,400,000
Virginia	Henderson Hall, Arlington	$1,970,000
	Marine Corps Combat Development Command, Quantico	$3,700,000
	Naval Air Station, Oceana	$10,000,000
	Naval Amphibious Base, Little Creek	$3,810,000
	Naval Space Command Center, Dahlgren	$24,020,000
	Naval Station, Norfolk	$182,240,000
	Norfolk Naval Shipyard, Portsmouth	$17,770,000
Washington	Naval Air Station, Whidbey Island	$4,350,000
	Naval Magazine, Indian Island	$2,240,000
	Naval Shipyard, Puget Sound	$12,120,000
	Naval Submarine Base, Bangor	$33,820,000
	Strategic Weapons Facility Pacific, Bangor	$6,530,000
Various Locations	Various Locations, CONUS	$56,360,000
	Total	$1,340,662,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Bahrain	Naval Support Activity, Bahrain	$18,030,000
Guam	Commander, United States Naval Forces, Marianas	$1,700,000
Italy	Naval Air Station, Sigonella	$48,749,000
	Naval Support Activity, La Maddalena	$39,020,000
United Kingdom	Joint Maritime Facility, St. Mawgan	$7,070,000
	Total	$114,569,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State or Country	Installation or location	Purpose	Amount
California	Naval Air Station, Lemoore	187 Units	$41,585,000
Florida	Naval Air Station, Pensacola	25 Units	$4,447,000
North Carolina	Marine Corps Air Station, Cherry Point	339 Units	42,803,000
	Marine Corps Base, Camp Lejeune	519 Units	$68,531,000
		Total	$157,366,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriation in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,381,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $20,446,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,288,917,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,005,882,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $114,569,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $13,624,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $71,141,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $184,193,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $852,778,000.

(6) For construction of a bachelors enlisted quarters shipboard ashore at Naval Shipyard Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107-314; 116 Stat. 2687), $46,730,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $25,690,000 (the balance of the amount authorized under section 2101(a) for construction of a tertiary sewage treatment facility, Marine Corp Base, Camp Pendleton, California).

(3) $58,190,000 (the balance of the amount authorized under section 2101(a) for construction of a battle station training facility, Naval Training Center, Great Lakes, Illinois).

(4) $96,980,000 (the balance of the amount authorized under section 2101(a) for construction of a general purpose berthing pier, Naval Weapons Station Earle, New Jersey).

(5) $118,170,000 (the balance of the amount authorized under section 2101(a) for construction of the Pier 11 replacement, Naval Station, Norfolk, Virginia).

(6) $28,750,000 (the balance of the amount authorized under section 2101(a) for construction of outlying landing field facilities, various locations in the continental United States).

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$26,000,000
Alaska	Eielson Air Force Base	$33,261,000
	Elmendorf Air Force Base	$2,000,000
Arizona	Davis-Monthan Air Force Base	$10,062,000
Arkansas	Little Rock Air Force Base	$7,445,000
California	Beale Air Force Base	$22,750,000
	Edwards Air Force Base	$26,744,000
	Vandenberg Air Force Base	$16,500,000
Colorado	Buckley Air Force Base	$7,019,000
District of Columbia	Bolling Air Force Base	$9,300,000
Florida	Hurlburt Field	$27,200,000
	Tyndall Air Force Base	$20,720,000
Georgia	Robins Air Force Base	$37,164,000
Hawaii	Hickam Air Force Base	$73,296,000
Idaho	Mountain Home Air Force Base	$5,445,000
Illinois	Scott Air Force Base	$1,900,000
Mississippi	Columbus Air Force Base	$2,200,000
	Keesler Air Force Base	$2,900,000
Missouri	Whiteman Air Force Base	$11,600,000
New Jersey	McGuire Air Force Base	$11,861,000
New Mexico	Kirtland Air Force Base	$11,247,000
	Tularosa Radar Test Site	$3,600,000
North Carolina	Pope Air Force Base	$24,499,000
	Seymour Johnson Air Force Base	$23,022,000
North Dakota	Minot Air Force Base	$3,190,000
Ohio	Wright-Patterson Air Force Base	$21,100,000
Oklahoma	Altus Air Force Base	$1,167,000
	Tinker Air Force Base	$19,444,000
South Carolina	Charleston Air Force Base	$9,042,000
	Shaw Air Force Base	$8,500,000
Texas	Goodfellow Air Force Base	$20,335,000
	Lackland Air Force Base	$57,360,000
	Laughlin Air Force Base	$12,400,000
	Sheppard Air Force Base	$38,167,000
Utah	Hill Air Force Base	$15,848,000
Virginia	Langley Air Force Base	$25,474,000
Washington	McChord Air Force Base	$19,000,000
	Total	$668,762,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	$41,866,000
	Spangdahlem Air Base	$5,411,000
Italy	Aviano Air Base	$14,025,000
Korea	Kunsan Air Base	$7,059,000
	Osan Air Base	$16,638,000
Portugal	Lajes Field, Azores	$4,086,000
Turkey	Incirlik Air Base	$3,262,000
United Kingdom	Royal Air Force, Lakenheath	$42,487,000
	Royal Air Force, Mildenhall	$10,558,000
Wake Island	Wake Island	$24,000,000
	Total	$169,392,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation or location	Amount
Unspecified Worldwide	Classified Location	$29,501,000
	Total	$29,501,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or location	Purpose	Amount
Arizona	Davis-Monthan Air Force Base	93 Units	$19,357,000
California	Travis Air Force Base	56 Units	$12,723,000
Delaware	Dover Air Force Base	112 Units	$19,601,000
Florida	Eglin Air Force Base	279 Units	$32,166,000
Idaho	Mountain Home Air Force Base	186 Units	$37,126,000
Maryland	Andrews Air Force Base	50 Units	$20,233,000
Missouri	Whiteman Air Force Base	100 Units	$18,221,000
Montana	Malmstrom Air Force Base	94 Units	$19,368,000
North Carolina	Seymour Johnson Air Force Base	138 Units	$18,336,000
North Dakota	Grand Forks Air Force Base	144 Units	$29,550,000
	Minot Air Force Base	200 Units	$41,117,000
South Dakota	Ellsworth Air Force Base	75 Units	$16,240,000
Texas	Dyess Air Force Base	116 Units	$19,973,000
	Randolph Air Force Base	96 Units	$13,754,000
Korea	Osan Air Base	111 Units	$44,765,000
Portugal	Lajes Field, Azores	42 Units	$13,428,000
United Kingdom	Royal Air Force, Lakenheath	89 Units	$23,640,000
		Total	$399,598,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $33,488,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, Unites States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $227,979,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,477,609,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $660,282,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $169,392,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2301(c), $28,981,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $115,421,000.

(6) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $657,065,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $834,468,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Defense Education Activity	Marine Corps Base, Camp Lejeune, North Carolina	$15,259,000
Defense Logistics Agency	Defense Distribution Depot, New Cumberland, Pennsylvania	$27,700,000
	Eglin Air Force Base, Florida	$4,800,000
	Eielson Air Force Base, Alaska	$17,000,000
	Hickam Air Force Base, Hawaii	$14,100,000
	Hurlburt Field, Florida	$4,100,000
	Offutt Air Force Base, Nebraska	$13,400,000
	Langley Air Force Base, Virginia	$13,000,000
	Laughlin Air Force Base, Texas	$4,688,000
	McChord Air Force Base, Washington	$8,100,000
	Naval Air Station, Kingsville, Texas	$9,200,000
	Nellis Air Force Base, Nevada	$12,800,000
National Security Agency	Fort Meade, Maryland	$1,842,000
Special Operations Command	Dam Neck, Virginia	$15,281,000
	Fort Benning, Georgia	$2,100,000
	Fort Bragg, North Carolina	$36,300,000
	Fort Campbell, Kentucky	$7,800,000
	Harrisburg International Airport, Pennsylvania	$3,000,000
	Hurlburt Field, Florida	$6,000,000
	MacDill, Air Force Base, Florida	$25,500,000
	Naval Amphibious Base, Coronado, California	$2,800,000
TRICARE Management Activity	Fort Hood, Texas	$9,400,000
	Naval Station, Anacostia, District of Columbia	$15,714,000
	Naval Submarine Base, New London, Connecticut	$6,700,000
	United States Air Force Academy, Colorado	$22,100,000
	Walter Reed Medical Center, District of Columbia	$9,000,000
Washington Headquarters Services	Arlington, Virginia	$38,086,000
	Total	$345,770,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Education Activity	Grafenwoehr, Germany	$36,247,000
	Heidelberg, Germany	$3,086,000
	Vilseck, Germany	$1,773,000
	Sigonella, Italy	$30,234,000
	Vicenza, Italy	$16,374,000
	Camp Humphreys, Korea	$31,683,000
Special Operations Command	Stuttgart, Germany	$11,400,000
TRICARE Management Activity	Anderson Air Force Base, Guam	$26,000,000
	Grafenwoehr, Germany	$12,585,000
	Total	$169,382,000

SEC. 2402. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8)(A), the Secretary of Defense may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $300,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $50,000.

SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $69,500,000.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,223,066,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $343,570,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $152,017,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,153,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,960,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $66,834,000.

(6) For energy conservation projects authorized by section 2404, $69,500,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $370,427,000.

(8) For military family housing functions:

(A) For planning, design, and improvement of military family housing and facilities, $350,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $49,440,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $300,000.

(9) For construction of the Defense Threat Reduction Center at Fort Belvoir, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2695), $25,700,000.

(10) For the construction of phase 5 of an ammunition demilitarization facility at Pueblo Depot Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $88,388,000.

(11) For the construction of phase 6 of an ammunition demilitarization facility at Newport Army Ammunition Plant, Indiana, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $15,207,000.

(12) For the construction of phase 4 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $16,220,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $169,300,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 2003, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $253,788,000; and

(B) for the Army Reserve, $89,840,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $45,762,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $123,408,000; and

(B) for the Air Force Reserve, $61,143,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects, and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2007 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 2001 PROJECT.

(a) EXTENSION OF CERTAIN PROJECT.—Notwithstanding section 2701 of the Floyd D.

Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–407), the authorization set forth in the table in subsection (b), as provided in section 2102 of that Act, shall remain in effect until October 1, 2004, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Army: Extension of 2001 Project Authorization

State	Installation or location	Project	Amount
South Carolina	Fort Jackson	New Construction—GFOQ	$250,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2000 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 841), the authorizations set forth in the tables in subsection (b), as provided in section 2302 or 2601 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2700), shall remain in effect until October 1, 2004, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) is as follows:

Air Force: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Oklahoma	Tinker Air Force Base	Replace Family Housing (41 Units)	$6,000,000

Army National Guard: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Virginia	Fort Pickett	Multi-purpose Range-Heavy	$13,500,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on the later of—

(1) October 1, 2003; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. INCREASE IN MAXIMUM AMOUNT OF AUTHORIZED ANNUAL EMERGENCY CONSTRUCTION.

Section 2803(c)(1) of title 10, United States Code, is amended by striking ''$30,000,000'' and inserting ''$45,000,000''.

SEC. 2802. AUTHORITY TO LEASE MILITARY FAMILY HOUSING UNITS IN ITALY.

Section 2828(e)(2) of title 10, United States Code, is amended by striking ''2,000 units'' and inserting ''2,800 units''.

SEC. 2803. CHANGES TO ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) SPACE LIMITATIONS BY PAY GRADE.—Section 2880(b)(2) of title 10, United States Code, is amended by striking ''unless the unit is located on a military installation''.

(b) DEPARTMENT OF DEFENSE HOUSING FUND.—(1) Section 2883 of such title is amended by striking subsections (a), (b), and (c) and inserting the following new subsections (a) and (b):

''(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Department of Defense Housing Improvement Fund (in this section referred to as the 'Fund').

''(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

''(1) Amounts authorized for and appropriated to the Fund.

''(2) Subject to subsection (e), any amounts that the Secretary of Defense transfers, in such amounts as are provided for in appropriation Acts, to the Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military family housing or military unaccompanied housing.

''(3) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military family housing or military unaccompanied housing.

''(4) Income derived from any activities under this subchapter with respect to military family housing or military unaccompanied housing, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

''(5) Any amounts that the Secretary of the Navy transfers to the Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.''.

(2) Such section is further amended—

(A) by redesignating subsections (d) through (g) as (c) through (f), respectively;

(B) in subsection (c), as so redesignated—

(i) in the subsection heading, by striking ''FUNDS'' and inserting ''FUND'';

(ii) in paragraph (1)—

(I) by striking ''subsection (e)'' and inserting ''subsection (d)''; and

(II) by striking ''Department of Defense Family Housing Improvement Fund'' and inserting ''Fund'';

(iii) by striking paragraph (2); and

(iv) by redesignating paragraph (3) as paragraph (2);

(C) in subsection (e), as so redesignated, by striking ''a Fund under paragraph (1)(B) or (2)(B) of subsection (c)'' and inserting ''the Fund under subsection (b)(2)''; and

(D) in subsection (f), as so redesignated, by striking ''$850,000,000'' in paragraph (1) and inserting ''$900,000,000''.

(c) TRANSFER OF UNOBLIGATED AMOUNTS.—(1) The Secretary of Defense shall transfer to the Department of Defense Housing Improvement Fund established under section 2883(a) of title 10, United States Code (as amended by subsection (b)), any amounts in the Department of Defense Family Housing Improvement Fund and the Department of Defense Military Unaccompanied Housing Improvement that remain available for obligation as of the date of the enactment of this Act.

(2) Amounts transferred to the Department of Defense Housing Improvement Fund under paragraph (1) shall be merged with amounts in that Fund, and shall be available for the same purposes, and subject to the same conditions and limitations, as other amounts in that Fund.

(d) CONFORMING AMENDMENTS.—(1) Paragraph (3) of section 2814(i) of such title is amended—

(A) by striking subparagraph (A) and inserting the following new subparagraph (A):

''(A) The Secretary may transfer funds from the Ford Island Improvement Account to the Department of Defense Housing Improvement Fund established by section 2883(a) of this title.''; and

(B) in subparagraph (B), by striking ''a fund'' and inserting ''the Fund''.

(2) Section 2871(6) of such title is amended by striking ''Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund'' and inserting ''Department of Defense Housing Improvement Fund''.

(3) Section 2875(e) of such title is amended by striking ''Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund'' and inserting ''Department of Defense Housing Improvement Fund''.

(e) CLERICAL AMENDMENTS.—(1) The section heading for section 2883 of such title is amended to read as follows:

''§2883. Department of Defense Housing Improvement Fund''.

(2) The table of sections at the beginning subchapter IV of chapter 169 of such title is amended by striking the item relating to section 2883 and inserting the following new item:

''2883. Department of Defense Housing Improvement Fund.''.

SEC. 2804. ADDITIONAL MATERIAL FOR ANNUAL REPORT ON HOUSING PRIVATIZATION PROGRAM.

Section 2884(b) of title 10, United States Code, is amended—

(1) in paragraph (2), by inserting before the period at the end the following: '', and such recommendations as the Secretary considers necessary for improving the extent and effectiveness of the use of such authorities in the future''; and

(2) by striking paragraph (3) and inserting the following new paragraphs:

''(3) A review of activities of the Secretary under this subchapter during such preceding fiscal year, shown for military family housing, military unaccompanied housing, dual military family housing and military unaccompanied housing, and ancillary supporting facilities.

''(4) If a contract for the acquisition or construction of military family housing, military unaccompanied housing, or dual military family housing and military unaccompanied housing

entered into during the preceding fiscal year did not include the acquisition or construction of the types of ancillary supporting facilities specifically referred to in section 2871(1) of this title, a explanation of the reasons why such ancillary supporting facilities were not included.

''(5) A description of the Secretary's plans for housing privatization activities under this subchapter (A) during the fiscal year for which the budget is submitted, and (B) during the period covered by the then-current future-years defense plan under section 221 of this title.''.

SEC. 2805. AUTHORITY TO CONVEY PROPERTY AT MILITARY INSTALLATIONS CLOSED OR TO BE CLOSED IN EXCHANGE FOR MILITARY CONSTRUCTION ACTIVITIES.

(a) IN GENERAL.—(1) Subchapter III of chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

''§2869. Conveyance of property at military installations closed or to be closed in exchange for military construction activities

''(a) CONVEYANCE AUTHORIZED; CONSIDERATION.—The Secretary of Defense may enter into an agreement to convey real property, including any improvements thereon, located on a military installation that is closed or realigned under a base closure law to any person who agrees, in exchange for the real property—

''(1) to carry out, or provide services in connection with, an authorized military construction project; or

''(2) to transfer to the Secretary of Defense housing that is constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable military family housing or military unaccompanied housing (or both).

''(b) CONDITIONS ON CONVEYANCE AUTHORITY.—A conveyance of real property may be made under subsection (a) only if—

''(1) the fair market value of the consideration to be received in exchange for the real property conveyed under subsection (a) is equal to or greater than the fair market value of the property, including any improvements thereon, as determined by the Secretary concerned; and

''(2) in the event the fair market value of the consideration to be received is equal to at least 90 percent, but less than 100 percent, of the fair market value of the real property to be conveyed, including any improvements thereon, the recipient of the property agrees to pay to the Secretary of Defense an amount equal to the difference in the fair market values.

''(c) USE OF AUTHORITY.—(1) To the maximum extent practicable, the Secretary of Defense shall use the authority provided by subsection (a) to convey at least 20 percent of the total acreage conveyed each fiscal year at military installations closed or realigned under the base closure laws. Notice of the proposed use of this authority shall be provided in such manner as the Secretary may prescribe, including publication in the Federal Register and otherwise. In determining such total acreage for a fiscal year, the Secretary shall exclude real property identified in a redevelopment plan as property essential to the reuse or redevlopment of a military installation closed or to be closed under a base closure law.

''(2) To the maximum extent practicable, the Secretary of Defense shall endeavor to use the authority provided by subsection (a) to obtain military construction and military housing services having a total value of at least $200,000,000 each fiscal year for each of the military departments.

''(3) The Secretary concerned shall utilize the authority provided in subsection (a) in lieu of obligating and expending funds appropriated for military construction and military housing projects that are authorized by law.

''(d) DEPOSIT OF FUNDS.—The Secretary of Defense may deposit funds received under subsection (b)(2) in the Department of Defense Housing Improvement Fund established under section 2883(a) of this title.

''(e) ANNUAL REPORT.—The Secretary of Defense shall include each year in the materials that the Secretary submits to Congress in support of the budget submitted by the President pursuant to section 1105 of title 31 a report detailing the extent to which the Secretary used the authority provided by subsection (a) to convey real property in exchange for military construction and military housing and plans for the use of such authority for the future. The report shall include the following:

''(1) The total value of the real property that was actually conveyed during the preceding fiscal year using the authority provided by subsection (a).

''(2) The total value of the military construction and military housing services obtained in exchange, and, if the dollar goal specified in subsection (c)(2) was not achieved for a military department, an explanation regarding the reasons why the goal was not achieved.

''(3) The current inventory of unconveyed lands at military installations closed or realigned under a base closure law.

''(4) A description of the results of conveyances under subsection (a) during the preceding fiscal year and plans for such conveyances for the current fiscal year, the fiscal year covered by the budget, and the period covered by the current future-years defense program under section 221 of this title.

''(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of real property conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary of Defense.

''(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.''.

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

''2869. Conveyance of property at military installations closed or to be closed in exchange for military construction activities.''.

(b) EXCEPTION TO REQUIREMENT FOR AUTHORIZATION OF NUMBER OF HOUSING UNITS.—Section 2822 of such title is amended by adding at the end the following new paragraph:

''(6) Housing units constructed or provided under section 2869 of this title.''.

(c) CONFORMING AMENDMENT TO DEPARTMENT OF DEFENSE HOUSING IMPROVEMENT FUND.—Section 2883(b) of such title, as amended by section 2803, is further amended by adding at the end the following new paragraph:

''(6) Any amounts that the Secretary concerned transfers to the Fund pursuant to section 2869 of this title.''.

(d) CONFORMING REPEALS TO BASE CLOSURE LAWS.—(1) Section 204(e) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is repealed.

(2) Section 2905(f) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is repealed.

SEC. 2806. CONGRESSIONAL NOTIFICATION AND REPORTING REQUIREMENTS AND LIMITATIONS REGARDING USE OF OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION.

(a) IN GENERAL.—Subchapter I of chapter 169 of title 10, United States Code, is amended by inserting after section 2809 the following new section:

''§2810. Use of operation and maintenance funds for construction: notification and reporting requirements and limitations

''(a) ADVANCE NOTIFICATION OF OBLIGATION OF FUNDS.—(1) The Secretary concerned shall submit to the appropriate committees of Congress advance written notice before appropriations available for operation and maintenance are obligated for construction described in paragraph (2). The notice shall be submitted not later than 14 days before the date on which appropriations available for operation and maintenance are first obligated for that construction and shall contain the information required by subsection (c).

''(2) Paragraph (1) applies with respect to any construction having an estimated total cost of more than $1,500,000, but not more than $5,000,000, which is paid for in whole or in part using appropriations available for operation and maintenance, if—

''(A) the construction is necessary to meet urgent military operational requirements of a temporary nature;

''(B) the construction was not carried out at a military installation where the United States is reasonably expected to have a long-term interest or presence;

''(C) the United States has no intention of using the construction after the operational requirement has been satisfied; and

''(D) the level of construction is the minimum necessary to meet the temporary operational need.

''(b) WAIVER AUTHORITY; CONGRESSIONAL NOTIFICATION.—(1) The Secretary concerned may waive the advance notice requirement under subsection (a) on a case-by-case basis if the Secretary determines that—

''(A) the project is vital to the national security or to the protection of health, safety, or the quality of the environment; and

''(B) the requirement for the construction is so urgent that deferral of the construction during the period specified in subsection (a)(1) would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

''(2) Not later than five days after the date on which a waiver is granted under paragraph (1), the Secretary concerned shall provide to the appropriate committees of Congress written notice containing the reasons for the waiver and the information required by subsection (c) with regard to the construction for which the waiver was granted.

''(c) CONTENT OF NOTICE.—The notice provided under subsection (a) or (b) with regard to construction funded using appropriations available for operation and maintenance shall include the following:

''(1) A description of the purpose for which the funds are being obligated.

''(2) An estimate of the total amount to be obligated for the construction.

''(3) The reasons appropriations available for operation and maintenance are being used.

''(d) LIMITATIONS ON USE OF OPERATION AND MAINTENANCE FUNDS.—(1) The Secretary concerned shall not use appropriations available for operation and maintenance to carry out any construction having an estimated total cost of more than $5,000,000.

''(2) The total cost of construction carried out by the Secretaries concerned in whole or in part using appropriations available for operation and maintenance shall not exceed $200,000,000 in any fiscal year.

''(e) QUARTERLY REPORT.—The Secretary concerned shall submit to the appropriate committees of Congress a quarterly report on the worldwide obligation and expenditure of appropriations available for operation and maintenance by the Secretary concerned for construction during the preceding quarter.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2809 the following new item:

''2810. Use of operation and maintenance funds for construction: notification and reporting requirements and limitations.''.

SEC. 2807. INCREASE IN AUTHORIZED MAXIMUM LEASE TERM FOR FAMILY HOUSING AND OTHER FACILITIES IN CERTAIN FOREIGN COUNTRIES.

(a) LEASE OF MILITARY FAMILY HOUSING.—Section 2828(d)(1) of title 10, United States Code, is amended by striking ''ten years,'' and inserting ''10 years, or 15 years in the case of leases in Korea,''.

(b) LEASES OF OTHER FACILITIES.—Section 2675 of such title is amended by inserting after ''five years,'' the following: ''or 15 years in the case of a lease in Korea,''.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. REAL PROPERTY TRANSACTIONS.

(a) INCREASE IN LAND ACQUISITION AUTHORITY COST THRESHOLD.—Section 2672 of title 10, United States Code, is amended by striking ''$500,000'' both places it appears and inserting ''$1,500,000''.

(b) PROMPT NOTIFICATION OF CERTAIN LAND ACQUISITIONS.—Section 2672a of such title is amended—

(1) in subsection (a)(1), by striking ''he or his designee'' and inserting ''the Secretary'';

(2) in subsection (b), by striking the last sentence; and

(3) by adding at the end the following new subsection:

''(c) Not later than 10 days after the determination is made under subsection (a)(1) that acquisition of an interest in land is needed in the interest of the national defense, the Secretary of the military department making that determination shall provide to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives written notice containing a description of the property and interest to be acquired and the reasons for the acquisition.''.

(c) MODIFICATION OF RELATED NOTIFICATION REQUIREMENTS.—Section 2662 of such title is amended—

(1) in subsection (a)—

(A) by striking ''30 days'' and all that follows through ''is submitted'' and inserting ''14 days after the beginning of the month with respect to which a single report containing the facts concerning such transaction and all other such proposed transactions for that month is submitted, not later than the first day of that month,''; and

(B) by striking ''$500,000'' each place it appears and inserting ''$1,500,000'';

(2) in subsection (b), by striking ''more than'' and all that follows through ''$500,000'' and inserting ''more than $250,000 but not more than $1,500,000'';

(3) in subsection (e)—

(A) by striking ''$500,000'' and inserting ''$1,000,000''; and

(B) by striking ''thirty days'' and inserting ''14 days''; and

(4) in subsection (g)(3), by striking ''30 days'' and inserting ''14 days''.

(d) CLERICAL AMENDMENTS.—(1) The heading of section 2672 of such title is amended to read as follows:

''§2672. Authority to acquire low-cost interests in land''.

(2) The item relating to section 2672 in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

''2672. Authority to acquire low-cost interests in land.''.

Subtitle C—Land Conveyances

SEC. 2821. TERMINATION OF LEASE AND CONVEYANCE OF ARMY RESERVE FACILITY, CONWAY, ARKANSAS.

(a) TERMINATION OF LEASE.—Upon the completion of the replacement facility authorized for the Army Reserve facility located in Conway, Arkansas, the Secretary of the Army may terminate the 99-year lease between the Secretary and the University of Central Arkansas for the property on which the old facility is located.

(b) CONVEYANCE OF FACILITY.—As part of the termination of the lease under subsection (a), the Secretary may convey, without consideration, to the University of Central Arkansas all right, title, and interest of the United States in and to the Army Reserve facility located on the leased property.

(c) ASSUMPTION OF LIABILITY.—The University of Central Arkansas shall expressly accept any and all liability pertaining to the physical condition of the Army Reserve facility conveyed under subsection (b) and shall hold the United States harmless from any and all liability arising from the facility's physical condition.

SEC. 2822. ACTIONS TO QUIET TITLE, FALLIN WATERS SUBDIVISION, EGLIN AIR FORCE BASE, FLORIDA.

(a) AUTHORITY TO QUIET TITLE.—Notwithstanding the restoration provisions under the heading ''QUARTERMASTER CORPS'' in the Second Deficiency Appropriation Act, 1940 (Act of June 27, 1940; chapter 437; 54 Stat. 655), the Secretary of the Air Force may take appropriate action to quiet title to tracts of land referred to in paragraph (2) on, at, adjacent, adjoining, or near Eglin Air Force Base, Florida. The Secretary may take such action in order to resolve encroachments upon private property by the United States and upon property of the United States by private parties, which resulted from reliance on inaccurate surveys.

(2) The tracts of land referred to in paragraph (1) are generally described as south of United States Highway 98 and bisecting the north/south section line of sections 13 and 14, township 2 south, range 25 west, located in the platted subdivision of Fallin Waters, Okaloosa County, Florida. The exact acreage and legal description of such tracts of land shall be determined by a survey satisfactory to the Secretary.

(b) AUTHORIZED ACTIONS.—In carrying out subsection (a), appropriate action by the Secretary may include any of the following:

(1) Disclaiming, on behalf of the United States, any intent by the United States to acquire by prescription any property at or in the vicinity of Eglin Air Force Base.

(2) Disposing of tracts of land owned by the United States.

(3) Acquiring tracts of land by purchase, by donation, or by exchange for tracts of land owned by the United States at or adjacent to Eglin Air Force Base.

(c) ACREAGE LIMITATIONS.—Individual tracts of land acquired or conveyed by the Secretary under paragraph (2) or (3) of subsection (a) may not exceed .10 acres. The total acreage so acquired may not exceed two acres.

(d) CONSIDERATION.—Any conveyance by the Secretary under this section may be made, at the discretion of the Secretary, without consideration, or by exchange for tracts of land adjoining Eglin Air Force Base in possession of private parties who mistakenly believed that they had acquired title to such tracts.

SEC. 2823. MODIFICATION OF LAND CONVEYANCE, EGLIN AIR FORCE BASE, FLORIDA.

(a) MODIFICATION.—Public Law 91-347 (84 Stat. 447) is amended—

(1) in the first section, by inserting ''or for other public purposes'' before the period at the end; and

(2) in section 3(1)—

(A) by inserting ''or for other public purposes'' after ''schools''; and

(B) by striking ''such purpose'' and inserting ''such a purpose''.

(b) ALTERATION OF LEGAL INSTRUMENT.—The Secretary of the Air Force shall execute and file in the appropriate office an amended deed or other appropriate instrument effectuating the modification of the reversionary interest retained by the United States in connection with the conveyance made pursuant to Public Law 91-347.

SEC. 2824. LAND CONVEYANCE, FORT CAMPBELL, KENTUCKY AND TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the department of transportation of the State of Tennessee (in this section referred to as the ''department'') all right, title, and interest of the United States in and to a parcel of real property (right-of-way), including any improvements thereon, located at Fort Campbell, Kentucky and Tennessee, for the purpose of realigning and upgrading United States Highway 79 from a two-lane highway to a four-lane highway.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the department shall pay from any source (including Federal funds made available to the State from the Highway Trust Fund) all of the costs of the Secretary incurred—

(A) to convey the property, including costs related to the preparation of documents under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), surveys (including all surveys required under subsection (c)), cultural reviews, and administrative oversight;

(B) to relocate a cemetery to permit the highway realignment and upgrading;

(C) to acquire approximately 200 acres of mission-essential replacement property required to support the training mission at Fort Campbell; and

(D) to dispose of residual Federal property located south of the realigned highway.

(2) The Secretary may accept funds under this subsection from the Federal Highway Administration or the State of Tennessee to pay costs described in paragraph (1) and credit them to the appropriate Department of the Army accounts for the purpose of paying such costs.

(3) All funds accepted by the Secretary under this subsection shall remain available until expended.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) or acquired and disposed of under section (b) shall be determined by surveys satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND CONVEYANCE, ARMY AND AIR FORCE EXCHANGE SERVICE PROPERTY, DALLAS, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Defense may authorize the Army and Air Force Exchange Service, a nonappropriated fund instrumentality of the United States, to convey, by sale, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, located at 1515 Roundtable Drive in Dallas, Texas.

(b) CONSIDERATION.—As consideration for conveyance under subsection (a), the purchaser shall pay to the Secretary, in a single lump sum payment, an amount equal to the fair market value of the real property conveyed, as determined by the Secretary. Section 574(a) of title 40, United States Code, shall apply with respect to the amounts received by the Secretary under this subsection.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2826. LAND CONVEYANCE, NAVAL RESERVE CENTER, ORANGE, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Orange, Texas (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of unimproved real property consisting of approximately 2.5 acres at Naval Reserve Center, Orange, Texas for the purpose of permitting the City to use the property for road construction, economic development, and other public purposes.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by the Secretary, of the property conveyed under such subsection.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle D—Other Matters

SEC. 2841. REDESIGNATION OF YUMA TRAINING RANGE COMPLEX AS BOB STUMP TRAINING RANGE COMPLEX.

The military aviation training facility located in southwestern Arizona and southeastern California and known as the Yuma Training Range Complex shall be known and designated as the ''Bob Stump Training Range Complex''. Any reference to such training range complex in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Bob Stump Training Range Complex.

SEC. 2842. MODIFICATION OF AUTHORITY TO CONDUCT A ROUND OF REALIGNMENTS AND CLOSURES OF MILITARY INSTALLATIONS IN 2005.

(a) REVISION TO FORCE STRUCTURE PLAN FOR 2005 ROUND.—Section 2912(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3001 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1342), is amended—

(1) by striking subparagraph (A) of paragraph (1) and inserting the following:

''(A) A force-structure plan for the Armed Forces that—

''(i) at a minimum, assumes the force structure under the 1991 Base Force force structure (as defined in paragraph (5)) that is also known as the 'Cheney-Powell force structure'; and

''(ii) includes such consideration as the Secretary considers appropriate of an assessment by the Secretary of—

''(I) the probable threats to the national security during the 20-year period beginning with fiscal year 2005;

''(II) the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) needed to meet those threats; and

''(III) the anticipated levels of funding that will be available for national defense purposes during such period.'';

(2) in paragraph (2)(A), by inserting before the period at the end the following: '', based upon an assumption that there are no installations available outside the United States for the permanent basing of elements of the Armed Forces'';

(3) in paragraph (4), by inserting after the first sentence the following new sentence: ''Any such revision shall be consistent with this subsection.''; and

(4) by adding at the end the following new paragraph:

''(5) BASE FORCE.—In this subsection, the term '1991 Base Force force structure' means the force structure plan for the Armed Forces, known as the 'Base Force', that was adopted by the Secretary of Defense in November 1990 based upon recommendations of the Chairman of the Joint Chiefs of Staff and as incorporated in the President's budget for fiscal year 1992, as submitted to Congress in February 1991 and that assumed the following force structure:

''(A) For the Department of Defense, 1,600,000 members of the Armed Forces on active duty and 900,000 members in an active status in the reserve components.

''(B) For the Army, 12 active divisions, six National Guard divisions, and two cadre divisions or their equivalents.

''(C) For the Navy, 12 aircraft carrier battle groups or their equivalents and 451 naval vessels, including 85 attack submarines.

''(D) For the Marine Corps, three active and one Reserve divisions and three active and one Reserve air wings.

''(E) For the Air Force, 15 active fighter wings and 11 National Guard fighter wings or their equivalents.''.

(b) PREPARATION OF LIST OF MILITARY INSTALLATIONS EXCLUDED FROM CONSIDERATION IN 2005 ROUND.—Section 2913 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3002 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1344), is amended by adding at the end the following new subsections:

''(g) BASE EXCLUSION CRITERIA.—In preparing the selection criteria required by this section that will be used in making recommendations for the closure or realignment of military installations inside the United States, the Secretary shall ensure that the final criteria reflect the requirement to develop a list of those military installations to be excluded from the base closure and realignment process, as provided in subsection (h).

''(h) LIST OF INSTALLATIONS EXCLUDED FROM CONSIDERATION FOR CLOSURE OR REALIGNMENT.—(1) Before preparing the list required by section 2914(a) of the military installations inside the United States that the Secretary recommends for closure or realignment, the Secretary shall prepare a list of core military installations that the Secretary considers absolutely essential to the national defense and that should not be considered for closure.

''(2) Not later than April 1, 2005, the Secretary shall submit to the congressional defense committees, publish in the Federal Register, and send to the Commission the list required by paragraph (1). The list shall contain at least 50 percent of the total number of military installations located inside the United States as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004.

''(3) The Commission shall consider the list based on the final criteria developed under subsection (e). The Commission may modify this list, in the manner provided in section 2903(d) and section 2914(d), if the Commission finds that the inclusion of a military installation on the list substantially violates the criteria. The Commission shall forward to the President, not later than April 30, 2005, a report containing its recommendations regarding the list, which must comply with the percentages specified in paragraph (2). The Comptroller General shall also comply with section 2903(d)(5) by that date.

''(4) If the Commission submits a report to the President under paragraph (3), the President shall notify Congress, not later than May 10, 2005, regarding whether the President approves or disapproves the report. If the President disapproves the report, the Commission shall be dissolved, and the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

''(5) A military installation included on the exclusion list approved under this subsection may not be included on the closure and realignment list prepared under section 2914(a) or otherwise considered for closure or realignment as part of the base closure process in 2005.''.

SEC. 2843. USE OF FORCE-STRUCTURE PLAN FOR THE ARMED FORCES IN PREPARATION OF SELECTION CRITERIA FOR BASE CLOSURE ROUND.

Section 2913(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3002 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1344), is amended by adding at the end the following new paragraph:

''(3) USE OF FORCE-STRUCTURE PLAN.—In preparing the proposed and final criteria to be used by the Secretary in making recommendations under section 2914 for the closure or realignment of military installations inside the United States, the Secretary shall use the force-structure plan for the Armed Forces prepared under section 2912(a).''

SEC. 2844. REQUIREMENT FOR UNANIMOUS VOTE OF DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION TO RECOMMEND CLOSURE OF MILITARY INSTALLATION NOT RECOMMENDED FOR CLOSURE BY SECRETARY OF DEFENSE.

Section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3003 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 155 Stat, 1346) and amended by section 2854 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2728), is amended—

(1) in paragraph (3), by striking ''TO ADD'' and inserting ''TO CONSIDER ADDITIONS''; and

(2) in paragraph (5)—

(A) by inserting ''AND UNANIMOUS VOTE'' after ''SITE VISIT''; and

(B) by inserting before the period at the end the following: ''and the decision of the Commission to recommend the closure of the installation is unanimous''.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $8,822,075,000, to be allocated as follows:

(1) For weapons activities, $6,393,000,000.

(2) For defense nuclear nonproliferation activities, $1,312,695,000.

(3) For naval reactors, $768,400,000.

(4) For the Office of the Administrator for Nuclear Security, $347,980,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for weapons activities, the following new plant projects:

Project 04–D–101, test capabilities revitalization, Sandia National Laboratories, Albuquerque, New Mexico, $36,450,000.

Project 04–D–102, exterior communications infrastructure modernization, Sandia National Laboratories, Albuquerque, New Mexico, $20,000,000.

Project 04–D–103, project engineering and design, various locations, $2,000,000.

Project 04–D–104, national security sciences building, Los Alamos National Laboratory, Los Alamos, New Mexico, $38,000,000.

Project 04–D–125, chemistry and metallurgy facility replacement project, Los Alamos National Laboratory, Los Alamos, New Mexico, $20,500,000.

Project 04–D–126, Building 12-44 production cells upgrade, Pantex plant, Amarillo, Texas, $8,780,000.

Project 04–D–127, cleaning and loading modifications, Savannah River Site, Aiken, South Carolina, $2,750,000.

Project 04–D–128, TA–18 Mission relocation project, Los Alamos National Laboratory, Los Alamos, New Mexico, $8,820,000.

Project 04–D–203, facilities and infrastructure recapitalization program, project engineering and design, various locations, $3,719,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for environmental management activities in carrying out programs necessary for national security in the amount of $6,819,314,000, to be allocated as follows:

(1) For defense site acceleration completion, $5,824,135,000.

(2) For defense environmental services, $995,179,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for defense site acceleration completion, the following new plant projects:

Project 04–D–408, glass waste storage building #2, Savannah River Site, Aiken, South Carolina, $20,259,000.

Project 04–D–414, project engineering and design, various locations, $23,500,000.

Project 04–D–423, 3013 container surveillance capability in 235-F, Savannah River Site, Aiken, South Carolina, $1,134,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for other defense activities in carrying out programs necessary for national security in the amount of $497,331,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $430,000,000.

SEC. 3105. ENERGY SUPPLY.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for energy supply activities in carrying out programs necessary for national security in the amount of $110,473,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

SEC. 3111. MODIFICATION OF PROHIBITION RELATING TO LOW-YIELD NUCLEAR WEAPONS.

Section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 2121 note) is amended—

(1) in the section heading, by striking ''**RESEARCH AND DEVELOPMENT**'' and inserting ''**DEVELOPMENT AND PRODUCTION**'';

(2) in subsection (a), by striking ''conduct research and development which could lead to the production by the United States of'' and insert ''develop or produce'';

(3) in subsection (b)—

(A) by striking ''conduct, or provide for the conduct of, research and development which could lead to the production by the United States of'' and insert ''develop, produce, or provide for the development or production of,''; and

(B) by striking ''the date of the enactment of this Act,'' and inserting ''November 30, 1993,'';

(4) in subsection (c)—

(A) by striking ''RESEARCH AND'' in the subsection heading;

(B) by striking ''research and'' in the matter preceding paragraph (1); and

(C) by inserting '', including assessment of low-yield nuclear weapons development by other nations that may pose a national security risk to the United States'' before the period at the end of paragraph (3);

(5) by redesignating subsection (d) as subsection (e); and

(6) by inserting after subsection (c) the following new subsection (d):

''(d) EFFECT ON STUDIES AND DESIGN WORK.—Nothing in this section shall prohibit the Secretary of Energy from conducting, or providing for the conduct of, concept definition studies, feasibility studies, or detailed engineering design work.''.

SEC. 3112. TERMINATION OF REQUIREMENT FOR ANNUAL UPDATES OF LONG-TERM PLAN FOR NUCLEAR WEAPONS STOCKPILE LIFE EXTENSION PROGRAM.

Section 3133 of the National Defense Authorization Act for Fiscal Year 2000 (42 U.S.C. 2121 note) is amended by adding at the end the following new subsection:

''(g) TERMINATION OF ANNUAL UPDATES.—Effective December 31, 2004, the requirements of subsections (c), (d), (e), and (f) shall terminate.''.

SEC. 3113. EXTENSION TO ALL DOE FACILITIES OF AUTHORITY TO PROHIBIT DISSEMINATION OF CERTAIN UNCLASSIFIED INFORMATION.

Subsection a. of section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended in paragraph (1)—

(1) in the matter preceding subparagraph (A), by striking '', with respect to atomic energy defense programs,'';

(2) in subparagraph (A), by striking ''production facilities or utilization facilities'' and inserting ''production facilities, utilization facilities, nuclear waste storage facilities, or uranium enrichment facilities, or any other facilities at which activities relating to nuclear weapons or nuclear materials are carried out, that are under the control or jurisdiction of the Secretary of Energy''; and

(3) in subparagraph (B), by striking ''production or utilization facilities'' and inserting ''such facilities''.

SEC. 3114. DEPARTMENT OF ENERGY PROJECT REVIEW GROUPS NOT SUBJECT TO FEDERAL ADVISORY COMMITTEE ACT BY REASON OF INCLUSION OF EMPLOYEES OF DEPARTMENT OF ENERGY MANAGEMENT AND OPERATING CONTRACTORS.

An officer or employee of a management and operating contractor of the Department of Energy, when serving as a member of a group reviewing or advising on matters related to any one or more management and operating contracts of the Department, shall be treated as an officer or employee of the Department for purposes of determining whether the group is an advisory committee within the meaning of section 3 of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 3115. AVAILABILITY OF FUNDS.

Section 3628 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2760; 42 U.S.C. 7386h) is amended to read as follows:

''SEC. 3628. AVAILABILITY OF FUNDS.

''(a) IN GENERAL.—Except as provided in subsection (b), amounts appropriated pursuant to a DOE national security authorization for a fiscal year—

''(1) shall remain available to be expended only in that fiscal year and the two succeeding fiscal years, in the case of amounts for the National Nuclear Security Administration; and

''(2) may, when so specified in an appropriations Act, remain available until expended, in all other cases.

''(b) PROGRAM DIRECTION.—Amounts appropriated pursuant to a DOE national security authorization for a fiscal year for program direction shall remain available to be obligated only until the end of that fiscal year.''.

SEC. 3116. LIMITATION ON OBLIGATION OF FUNDS FOR NUCLEAR TEST READINESS PROGRAM.

Not more than 40 percent of the funds made available to the Secretary of Energy for fiscal year 2004 for the Nuclear Test Readiness program of the Department of Energy may be obligated until—

(1) the Secretary of Energy submits to the Committees on Armed Services of the Senate and the House of Representatives the report required by section 3142(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2733), relating to plans for achieving enhanced readiness postures for resumption by the United States of underground nuclear weapons tests; and

(2) a period of 30 days has passed after the date on which such report is received by those committees.

SEC. 3117. REQUIREMENT FOR ON-SITE MANAGERS.

(a) ON-SITE MANAGER REQUIREMENT.—Before obligating any defense nuclear nonproliferation funds for a project described in subsection (b), the Secretary of Energy shall appoint a United States Federal Government employee as an on-site manager.

(b) PROJECTS COVERED.—Subsection (a) applies to a project—

(1) to be located in a state of the former Soviet Union;

(2) which involves dismantlement, destruction, or storage facilities, or construction of a facility; and

(3) with respect to which the total contribution by the Department of Energy is expected to exceed $25,000,000.

(c) DUTIES OF ON-SITE MANAGER.—The on-site manager appointed under subsection (a) shall—

(1) develop, in cooperation with representatives from governments of countries participating in the project, a list of those steps or activities critical to achieving the project's disarmament or nonproliferation goals;

(2) establish a schedule for completing those steps or activities;

(3) meet with all participants to seek assurances that those steps or activities are being completed on schedule; and

(4) suspend United States participation in a project when a non-United States participant fails to complete a scheduled step or activity on time, unless directed by the Secretary of Energy to resume United States participation.

(d) STEPS OR ACTIVITIES.—Steps or activities referred to in subsection (c)(1) are those activities that, if not completed, will prevent a project from achieving its disarmament or nonproliferation goals, including, at a minimum, the following:

(1) Identification and acquisition of permits (as defined in subsection (f)).

(2) Verification that the items, substances, or capabilities to be dismantled, secured, or otherwise modified are available for dismantlement, securing, or modification.

(3) Timely provision of financial, personnel, management, transportation, and other resources.

(e) NOTIFICATION TO CONGRESS.—In any case in which the Secretary of Energy directs an onsite manager to resume United States participation in a project under subsection (c)(4), the Secretary shall concurrently notify Congress of such direction.

(f) PERMIT DEFINED.—In this section, the term ''permit'' means any local or national permit for development, general construction, environmental, land use, or other purposes that is required in the state of the former Soviet Union in which the project is being or is proposed to be carried out.

(g) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

Subtitle C—Consolidation of National Security Provisions

SEC. 3121. TRANSFER AND CONSOLIDATION OF RECURRING AND GENERAL PROVISIONS ON DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.

(a) PURPOSE.—

(1) IN GENERAL.—The purpose of this section is to assemble together, without substantive amendment but with technical and conforming amendments of a non-substantive nature, recurring and general provisions of law on Department of Energy national security programs that remain in force in order to consolidate and organize such provisions of law into a single Act intended to comprise general provisions of law on such programs.

(2) CONSTRUCTION OF TRANSFERS.—The transfer of a provision of law by this section shall not be construed as amending, altering, or otherwise modifying the substantive effect of such provision.

(3) COORDINATION WITH OTHER AMENDMENTS.—For purposes of applying amendments made by provisions of this Act other than provisions of this section, this section shall be treated as having been enacted immediately after the other provisions of this Act.

(4) TREATMENT OF SATISFIED REQUIREMENTS.—Any requirement in a provision of law transferred under this section (including a requirement that an amendment to law be executed) that has been fully satisfied in accordance with the terms of such provision of law as of the date of transfer under this section shall be treated as so fully satisfied, and shall not be treated as being revived solely by reason of transfer under this section.

(5) CLASSIFICATION.—The provisions of the Atomic Energy Defense Act, as amended by this section, shall be classified to the United States Code as a new chapter of title 50, United States Code.

(b) DIVISION HEADING.—The Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) is amended by adding at the end the following new division heading:

''DIVISION D—ATOMIC ENERGY DEFENSE PROVISIONS''.

(c) SHORT TITLE; DEFINITION.—

(1) SHORT TITLE.—Section 3601 of the Atomic Energy Defense Act (title XXXVI of Public Law 107–314; 116 Stat. 2756) is—

(A) transferred to the end of the Bob Stump National Defense Authorization Act for Fiscal Year 2003;

(B) redesignated as section 4001;

(C) inserted after the heading for division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by subsection (b); and

(D) amended by striking ''title'' and inserting ''division''.

(2) DEFINITION.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new section:

''SEC. 4002. DEFINITION.

''In this division, the term 'congressional defense committees' means—

''(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

''(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.''.

(d) ORGANIZATIONAL MATTERS.—

(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following:

''TITLE XLI—ORGANIZATIONAL MATTERS''.

(2) NAVAL NUCLEAR PROPULSION PROGRAM.—Section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2649) is—

(A) transferred to title XLI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) inserted after the title heading for such title, as so added; and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

''SEC. 4101. NAVAL NUCLEAR PROPULSION PROGRAM.''; and

(ii) by striking ''SEC. 1634.''.

(3) MANAGEMENT STRUCTURE FOR FACILITIES AND LABORATORIES.—Section 3140 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2833) is—

(A) transferred to title XLI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4102;

(C) inserted after section 4101, as added by paragraph (2); and

(D) amended in subsection (d)(2), by striking ''120 days after the date of the enactment of this Act,'' and inserting ''January 21, 1997,''.

(4) RESTRICTION ON LICENSING REQUIREMENTS FOR CERTAIN ACTIVITIES AND FACILITIES.—Section 210 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3202) is—

(A) transferred to title XLI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4102, as added by paragraph (3); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

''SEC. 4103. RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE ACTIVITIES AND FACILITIES.'';

(ii) by striking ''SEC. 210.''; and

(iii) by striking ''this or any other Act'' and inserting ''the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act''.

(e) NUCLEAR WEAPONS STOCKPILE MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

''TITLE XLII—NUCLEAR WEAPONS STOCKPILE MATTERS

''Subtitle A—Stockpile Stewardship and Weapons Production''.

(2) STOCKPILE STEWARDSHIP PROGRAM.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946), as amended by section 3152(e) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2042), is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4201; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) STOCKPILE STEWARDSHIP CRITERIA.—Section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2257), as amended, is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4202; and

(C) inserted after section 4201, as added by paragraph (2).

(4) PLAN FOR STEWARDSHIP, MANAGEMENT, AND CERTIFICATION OF WARHEADS IN STOCKPILE.—Section 3151 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2041) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4203; and

(C) inserted after section 4202, as added by paragraph (3).

(5) STOCKPILE LIFE EXTENSION PROGRAM.—Section 3133 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 926) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4204;

(C) inserted after section 4203, as added by paragraph (4); and

(D) amended in subsection (c)(1) by striking ''the date of the enactment of this Act'' and inserting ''October 5, 1999''.

(6) ANNUAL ASSESSMENTS AND REPORTS ON CONDITION OF STOCKPILE.—Section 3141 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2730) is—

(A) transferred to title XLII of division D of such Act, as amended by this subsection;

(B) redesignated as section 4205;

(C) inserted after section 4204, as added by paragraph (5); and

(D) amended in subsection (d)(3)(B) by striking ''section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (42 U.S.C. 2121 note)'' and inserting ''section 4212''.

(7) FORM OF CERTAIN CERTIFICATIONS REGARDING STOCKPILE.—Section 3194 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–481) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4206; and

(C) inserted after section 4205, as added by paragraph (6).

(8) NUCLEAR TEST BAN READINESS PROGRAM.—Section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2075) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4207;

(C) inserted after section 4206, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) STUDY ON NUCLEAR TEST READINESS POSTURES.—Section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 623), as amended by section 3192 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4208; and

(C) inserted after section 4207, as added by paragraph (8).

(10) REQUIREMENTS FOR REQUESTS FOR NEW OR MODIFIED NUCLEAR WEAPONS.—Section 3143 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2733) is—

(A) transferred to title XLII of division D of such Act, as amended by this subsection;

(B) redesignated as section 4209; and

(C) inserted after section 4208, as added by paragraph (9).

(11) LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.—Subsection (f) of section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102–337; 106 Stat. 1345) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4209, as added by paragraph (10); and

(C) amended—

(i) by inserting before the text the following new section heading:

***''SEC. 4210. LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.''**; and*

(ii) by striking ''(f)''.

(12) TESTING OF NUCLEAR WEAPONS.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4211;

(C) inserted after section 4210, as added by paragraph (11); and

(D) amended—

(i) in subsection (a), by inserting ''of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160)'' after ''section 3101(a)(2)''; and

(ii) in subsection (b), by striking ''this Act'' and inserting ''the National Defense Authorization Act for Fiscal Year 1994''.

(13) MANUFACTURING INFRASTRUCTURE FOR STOCKPILE.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620), as amended by section 3132 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2829), is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4212;

(C) inserted after section 4211, as added by paragraph (12); and

(D) amended in subsection (d) by inserting ''of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)'' after ''section 3101(b)''.

(14) REPORTS ON CRITICAL DIFFICULTIES AT LABORATORIES AND PLANTS.—Section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2842), as amended by section 1305 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1954) and section 3163 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 944), is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4213; and

(C) inserted after section 4212, as added by paragraph (13).

(15) SUBTITLE HEADING ON TRITIUM.—Title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle B—Tritium''.

(16) TRITIUM PRODUCTION PROGRAM.—Section 3133 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 618) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4231;

(C) inserted after the heading for subtitle B of such title XLII, as added by paragraph (15); and

(D) amended—

(i) by striking ''the date of the enactment of this Act'' each place it appears and inserting ''February 10, 1996''; and

(ii) in subsection (b), by inserting ''of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)'' after ''section 3101''.

(17) TRITIUM RECYCLING.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4232; and

(C) inserted after section 4231, as added by paragraph (16).

(18) TRITIUM PRODUCTION.—Subsections (c) and (d) of section 3133 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830) are—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4232, as added by paragraph (17); and

(C) amended—

(i) by inserting before the text the following new section heading:

***''SEC. 4233. TRITIUM PRODUCTION.''**;*

(ii) by redesignating such subsections as subsections (a) and (b), respectively; and

(iii) in subsection (a), as so redesignated, by inserting ''of Energy'' after ''The Secretary''.

(19) MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES.—Section 3134 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4234;

(C) inserted after section 4233, as added by paragraph (18); and

(D) amended in subsection (b) by inserting ''of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)'' after ''section 3101''.

(20) PROCEDURES FOR MEETING TRITIUM PRODUCTION REQUIREMENTS.—Section 3134 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 927) is—

(A) transferred to title XLII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4235; and

(C) inserted after section 4234, as added by paragraph (19).

(f) PROLIFERATION MATTERS.—

(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new title heading:

''TITLE XLIII—PROLIFERATION MATTERS''.

(2) INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.—Section 3133 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2036), as amended by sections 1069 and 3131 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2136, 2246), is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4301;

(C) inserted after the heading for such title, as so added; and

(D) amended in subsection (b)(3) by striking ''of this Act'' and inserting ''of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)''.

(3) NONPROLIFERATION INITIATIVES AND ACTIVITIES.—Section 3136 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 927) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4302;

(C) inserted after section 4301, as added by paragraph (2); and

(D) amended in subsection (b)(1) by striking ''this title'' and inserting ''title XXXI of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65)''.

(4) ANNUAL REPORT ON MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.—Section 3171 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1645A–475) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4303;

(C) inserted after section 4302, as added by paragraph (3); and

(D) amended in subsection (c)(1) by striking ''this Act'' and inserting ''the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398)''.

(5) NUCLEAR CITIES INITIATIVE.—Section 3172 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1645A–476) is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4304; and

(C) inserted after section 4303, as added by paragraph (4).

(6) PROGRAMS ON FISSILE MATERIALS.—Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 617), as amended by section 3152 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2738), is—

(A) transferred to title XLIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4305; and

(C) inserted after section 4304, as added by paragraph (5).

(g) ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLIV—ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT MATTERS

"Subtitle A—Environmental Restoration and Waste Management".

(2) DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACCOUNT.—Section 3134 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1575) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4401; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) FUTURE USE PLANS FOR ENVIRONMENTAL MANAGEMENT PROGRAM.—Section 3153 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2839) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4402;

(C) inserted after section 4401, as added by paragraph (2); and

(D) amended—

(i) in subsection (d), by striking ''the date of the enactment of this Act'' and inserting ''September 23, 1996,''; and

(ii) in subsection (h)(1), by striking ''the date of the enactment of this Act'' and inserting ''September 23, 1996''.

(4) INTEGRATED FISSILE MATERIALS MANAGEMENT PLAN.—Section 3172 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 948) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4403; and

(C) inserted after section 4402, as added by paragraph (3).

(5) BASELINE ENVIRONMENTAL MANAGEMENT REPORTS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950), as amended by section 3160 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3094), section 3152 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2839), and section 3160 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2048), is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4404; and

(C) inserted after section 4403, as added by paragraph (4).

(6) ACCELERATED SCHEDULE OF ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Section 3156 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4405;

(C) inserted after section 4404, as added by paragraph (5); and

(D) amended in subsection (b)(2) by inserting before the period the following: '', the predecessor provision to section 4404 of this Act''.

(7) DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM.—Section 3141 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1679) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4406;

(C) inserted after section 4405, as added by paragraph (6); and

(D) amended in the section heading by adding a period at the end.

(8) REPORT ON ENVIRONMENTAL RESTORATION EXPENDITURES.—Section 3134 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1833) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4407;

(C) inserted after section 4406, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) PUBLIC PARTICIPATION IN PLANNING FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Subsection (e) of section 3160 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3095) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4407, as added by paragraph (8); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4408. PUBLIC PARTICIPATION IN PLANNING FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT AT DEFENSE NUCLEAR FACILITIES."; *and*

(ii) by striking ''(e) PUBLIC PARTICIPATION IN PLANNING.—''.

(10) SUBTITLE HEADING ON CLOSURE OF FACILITIES.—Title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Closure of Facilities".

(11) PROJECTS TO ACCELERATE CLOSURE ACTIVITIES AT DEFENSE NUCLEAR FACILITIES.—Section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4421;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (10); and

(D) amended in subsection (i), by striking ''the expiration of the 15-year period beginning on the date of the enactment of this Act'' and inserting ''September 23, 2011''.

(12) REPORTS IN CONNECTION WITH PERMANENT CLOSURE OF DEFENSE NUCLEAR FACILITIES.—Section 3156 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1683) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4422;

(C) inserted after section 4421, as added by paragraph (11); and

(D) amended in the section heading by adding a period at the end.

(13) SUBTITLE HEADING ON PRIVATIZATION.—Title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Privatization".

(14) DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION PROJECTS.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2034) is—

(A) transferred to title XLIV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4431;

(C) inserted after the heading for subtitle C of such title, as added by paragraph (13); and

(D) amended—

(i) in subsections (a), (c)(1)(B)(i), and (d), by inserting ''of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)'' after ''section 3102(i)''; and

(ii) in subsections (c)(1)(B)(ii) and (f), by striking ''the date of enactment of this Act'' and inserting ''November 18, 1997''.

(h) SAFEGUARDS AND SECURITY MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLV—SAFEGUARDS AND SECURITY MATTERS

"Subtitle A—Safeguards and Security".

(2) PROHIBITION ON INTERNATIONAL INSPECTIONS OF FACILITIES WITHOUT PROTECTION OF RESTRICTED DATA.—Section 3154 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 624) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4501;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) by striking ''(1) The'' and inserting ''The''; and

(ii) by striking ''(2) For purposes of paragraph (1),'' and inserting ''(c) RESTRICTED DATA DEFINED.—In this section,''.

(3) RESTRICTIONS ON ACCESS TO LABORATORIES BY FOREIGN VISITORS FROM SENSITIVE COUNTRIES.—Section 3146 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 935) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization

Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4502;

(C) inserted after section 4501, as added by paragraph (2); and

(D) amended—

(i) in subsection (b)(2)—

(I) in the matter preceding subparagraph (A), by striking ''30 days after the date of the enactment of this Act'' and inserting ''on November 4, 1999,''; and

(II) in subparagraph (A), by striking ''The date that is 90 days after the date of the enactment of this Act'' and inserting ''January 3, 2000'';

(ii) in subsection (d)(1), by striking ''the date of the enactment of this Act,'' and inserting ''October 5, 1999,''; and

(iii) in subsection (g), by adding at the end the following new paragraphs:

''(3) The term 'national laboratory' means any of the following:

''(A) Lawrence Livermore National Laboratory, Livermore, California.

''(B) Los Alamos National Laboratory, Los Alamos, New Mexico.

''(C) Sandia National Laboratories, Albuquerque, New Mexico and Livermore, California.

''(4) The term 'Restricted Data' has the meaning given that term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).''.

(4) BACKGROUND INVESTIGATIONS ON CERTAIN PERSONNEL.—Section 3143 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 934) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4503;

(C) inserted after section 4502, as added by paragraph (3); and

(D) amended—

(i) in subsection (b), by striking ''the date of the enactment of this Act'' and inserting ''October 5, 1999,''; and

(ii) by adding at the end the following new subsection:

''(c) DEFINITIONS.—In this section, the terms 'national laboratory' and 'Restricted Data' have the meanings given such terms in section 4502(g)).''.

(5) COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—

(A) DEPARTMENT OF ENERGY COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—Section 3152 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1376) is—

(i) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4504;

(iii) inserted after section 4503, as added by paragraph (4); and

(iv) amended in subsection (c) by striking ''section 3154 of the Department of Energy Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999 (subtitle D of title XXXI of Public Law 106–65; 42 U.S.C. 7383h)'' and inserting ''section 4504A''.

(B) COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—Section 3154 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 941), as amended by section 3135 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–456), is—

(i) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4504A;

(iii) inserted after section 4504, as added by subparagraph (A); and

(iv) amended in subsection (h) by striking ''180 days after the date of the enactment of this Act,'' and inserting ''April 5, 2000,''.

(6) NOTICE OF SECURITY AND COUNTERINTELLIGENCE FAILURES.—Section 3150 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 939) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4505;

(C) inserted after section 4504A, as added by paragraph (5)(B).

(7) ANNUAL REPORT ON SECURITY FUNCTIONS AT NUCLEAR WEAPONS FACILITIES.—Section 3162 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2049) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4506;

(C) inserted after section 4505, as added by paragraph (6); and

(D) amended in subsection (b) by inserting ''of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2048; 42 U.S.C. 7251 note)'' after ''section 3161''.

(8) REPORT ON COUNTERINTELLIGENCE AND SECURITY PRACTICES AT LABORATORIES.—Section 3152 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4507;

(C) inserted after section 4506, as added by paragraph (7); and

(D) amended by adding at the end the following new subsection:

''(c) NATIONAL LABORATORY DEFINED.—In this section, the term 'national laboratory' has the meaning given that term in section 4502(g)(3).''.

(9) REPORT ON SECURITY VULNERABILITIES OF NATIONAL LABORATORY COMPUTERS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4508;

(C) inserted after section 4507, as added by paragraph (8); and

(D) amended by adding at the end the following new subsection:

''(f) NATIONAL LABORATORY DEFINED.—In this section, the term 'national laboratory' has the meaning given that term in section 4502(g)(3).''.

(10) SUBTITLE HEADING ON CLASSIFIED INFORMATION.—Title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle B—Classified Information''.

(11) REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.—Section 3155 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4521; and

(C) inserted after the heading for subtitle B of such title, as added by paragraph (10).

(12) PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.—Section 3161 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2259), as amended by section 1067(3) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) and section 3193 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4522;

(C) inserted after section 4521, as added by paragraph (11); and

(D) amended—

(i) in subsection (c)(1), by striking ''the date of the enactment of this Act'' and inserting ''October 17, 1998,'';

(ii) in subsection (f)(1), by striking ''the date of the enactment of this Act'' and inserting ''October 17, 1998''; and

(iii) in subsection (f)(2), by striking ''The Secretary'' and inserting ''Commencing with inadvertent releases discovered on or after October 30, 2000, the Secretary''.

(13) SUPPLEMENT TO PLAN FOR DECLASSIFICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.—Section 3149 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 938) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4523;

(C) inserted after section 4522, as added by paragraph (12); and

(D) amended—

(i) in subsection (a), by striking ''subsection (a) of section 3161 of the Strom Thurmond National Defense Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2260; 50 U.S.C. 435 note)'' and inserting ''subsection (a) of section 4522'';

(ii) in subsection (b)—

(I) by striking ''section 3161(b)(1) of that Act'' and inserting ''subsection (b)(1) of section 4522''; and

(II) by striking ''the date of the enactment of that Act'' and inserting ''October 17, 1998,'';

(iii) in subsection (c)—

(I) by striking ''section 3161(c) of that Act'' and inserting ''subsection (c) of section 4522''; and

(II) by striking ''section 3161(a) of that Act'' and inserting ''subsection (a) of such section''; and

(iv) in subsection (d), by striking ''section 3161(d) of that Act'' and inserting ''subsection (d) of section 4522''.

(14) PROTECTION OF CLASSIFIED INFORMATION DURING LABORATORY-TO-LABORATORY EXCHANGES.—Section 3145 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 935) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4524; and

(C) inserted after section 4523, as added by paragraph (13).

(15) IDENTIFICATION IN BUDGETS OF AMOUNT FOR DECLASSIFICATION ACTIVITIES.—Section 3173 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 949) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4525;

(C) inserted after section 4524, as added by paragraph (14); and

(D) amended in subsection (b) by striking ''the date of the enactment of this Act'' and inserting ''October 5, 1999,''.

(16) SUBTITLE HEADING ON EMERGENCY RESPONSE.—Title XLV of division D of the Bob Stump National Defense Authorization Act for

Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Emergency Response".

(17) RESPONSIBILITY FOR DEFENSE PROGRAMS EMERGENCY RESPONSE PROGRAM.—Section 3158 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 626) is—

(A) transferred to title XLV of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4541; and

(C) inserted after the heading for subtitle C of such title, as added by paragraph (16).

(i) PERSONNEL MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLVI—PERSONNEL MATTERS

"Subtitle A—Personnel Management".

(2) AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.—Section 3161 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3095), as amended by section 3139 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2040), sections 3152 and 3155 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2253, 2257), and section 3191 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4601; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) WHISTLEBLOWER PROTECTION PROGRAM.—Section 3164 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 946) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4602;

(C) inserted after section 4601, as added by paragraph (2); and

(D) amended in subsection (n) by striking ''60 days after the date of the enactment of this Act,'' and inserting ''December 5, 1999,''.

(4) EMPLOYEE INCENTIVES FOR WORKERS AT CLOSURE PROJECT FACILITIES.—Section 3136 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–458) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4603;

(C) inserted after section 4602, as added by paragraph (3); and

(D) amended—

(i) in subsections (c) and (i)(1)(A), by striking ''section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (42 U.S.C. 7274n)'' and inserting ''section 4421''; and

(ii) in subsection (g), by striking ''section 3143(h) of the National Defense Authorization Act for Fiscal Year 1997'' and inserting ''section 4421(h)''.

(5) DEFENSE NUCLEAR FACILITY WORKFORCE RESTRUCTURING PLAN.—Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644), as amended by section 1070(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2857), Public Law 105–277 (112 Stat. 2681–419, 2681–430), and section 1048(h)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1229), is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4604;

(C) inserted after section 4603, as added by paragraph (4); and

(D) amended—

(i) in subsection (a), by striking ''(hereinafter in this subtitle referred to as the 'Secretary')''; and

(ii) by adding at the end the following new subsection:

''(g) DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITY DEFINED.—In this section, the term 'Department of Energy defense nuclear facility' means—

''(1) a production facility or utilization facility (as those terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

''(2) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

''(3) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada Test Site, Nevada; the Pinnellas Plant, Florida; and the Pantex facility, Texas);

''(4) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

''(5) any facility described in paragraphs (1) through (4) that—

''(A) is no longer in operation;

''(B) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

''(C) was operated for national security purposes.''.

(6) AUTHORITY TO PROVIDE CERTIFICATE OF COMMENDATION TO EMPLOYEES.—Section 3195 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–481) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4605; and

(C) inserted after section 4604, as added by paragraph (5).

(7) SUBTITLE HEADING ON TRAINING AND EDUCATION.—Title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Education and Training".

(8) EXECUTIVE MANAGEMENT TRAINING.—Section 3142 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1680) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4621;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.—Section 3131 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3085) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4622;

(C) inserted after section 4621, as added by paragraph (8); and

(D) amended—

(i) in subsection (a)(1), by striking ''section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note)'' and inserting ''section 4201''; and

(ii) in subsection (b)(2), by inserting ''of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337)'' after ''section 3101(a)(1)''.

(10) FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO NUCLEAR WEAPONS COMPLEX.—Section 3140 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat 621), as amended by section 3162 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 943), is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4623; and

(C) inserted after section 4622, as added by paragraph (9).

(11) SUBTITLE HEADING ON WORKER SAFETY.—Title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Worker Safety".

(12) WORKER PROTECTION AT NUCLEAR WEAPONS FACILITIES.—Section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4641;

(C) inserted after the heading for subtitle C of such title, as added by paragraph (11); and

(D) amended in subsection (e) by inserting ''of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190)'' after ''section 3101(9)(A)''.

(13) SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.—Section 3163 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3097) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4642;

(C) inserted after section 4641, as added by paragraph (12); and

(D) amended in subsection (b) by striking ''90 days after the date of the enactment of this Act,'' and inserting ''January 5, 1995,''.

(14) PROGRAM TO MONITOR WORKERS AT DEFENSE NUCLEAR FACILITIES EXPOSED TO HAZARDOUS OR RADIOACTIVE SUBSTANCES.—Section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2646) is—

(A) transferred to title XLVI of division D of the Bob Stump National Defense Authorization

Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4643;

(C) inserted after section 4642, as added by paragraph (13); and

(D) amended—

(i) in subsection (b)(6), by striking ''1 year after the date of the enactment of this Act'' and inserting ''October 23, 1993'';

(ii) in subsection (c), by striking ''180 days after the date of the enactment of this Act,'' and inserting ''April 23, 1993,''; and

(iii) by adding at the end the following new subsection:

''(c) DEFINITIONS.—In this section:

''(1) The term 'Department of Energy defense nuclear facility' has the meaning given that term in section 4604(g).

''(2) The term 'Department of Energy employee' means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a contractor of subcontractor of the Department of Energy employed at such a facility.''.

(j) BUDGET AND FINANCIAL MANAGEMENT MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

''TITLE XLVII—BUDGET AND FINANCIAL MANAGEMENT MATTERS

''Subtitle A—Recurring National Security Authorization Provisions''.

(2) RECURRING NATIONAL SECURITY AUTHORIZATION PROVISIONS.—Sections 3620 through 3631 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2756) are—

(A) transferred to title XLVII of division D of such Act, as added by paragraph (1);

(B) redesignated as sections 4701 through 4712, respectively;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) in section 4702, as so redesignated, by striking ''sections 3629 and 3630'' and inserting ''sections 4710 and 4711'';

(ii) in section 4706(a)(3)(B), as so redesignated, by striking ''section 3626'' and inserting ''section 4707'';

(iii) in section 4707(c), as so redesignated, by striking ''section 3625(b)(2)'' and inserting ''section 4706(b)(2)'';

(iv) in section 4710(c), as so redesignated, by striking ''section 3621'' and inserting ''section 4702'';

(v) in section 4711(c), as so redesignated, by striking ''section 3621'' and inserting ''section 4702''; and

(vi) in section 4712, as so redesignated, by striking ''section 3621'' and inserting ''section 4702''.

(3) SUBTITLE HEADING ON PENALTIES.—Title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle B—Penalties''.

(4) RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER ENVIRONMENTAL LAWS.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 4063) is—

(A) transferred to title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4721;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (3); and

(D) amended in the section heading by adding a period at the end.

(5) RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.—Section 211 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3203) is—

(A) transferred to title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4721, as added by paragraph (4); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

''SEC. 4722. RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.'';

(ii) by striking SEC. 211.''; and

(iii) by striking ''this or any other Act'' and inserting ''the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act''.

(6) SUBTITLE HEADING ON OTHER MATTERS.—Title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle C—Other Matters''.

(7) SINGLE REQUEST FOR AUTHORIZATION OF APPROPRIATIONS FOR COMMON DEFENSE AND SECURITY PROGRAMS.—Section 208 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979 (Public Law 95–509; 92 Stat. 1779) is—

(A) transferred to title XLVII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after the heading for subtitle C of such title, as added by paragraph (6); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

''SEC. 4731. SINGLE REQUEST FOR AUTHORIZATION OF APPROPRIATIONS FOR COMMON DEFENSE AND SECURITY PROGRAMS.''; and

(ii) by striking ''SEC. 208.''.

(k) ADMINISTRATIVE MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

''TITLE XLVIII—ADMINISTRATIVE MATTERS

''Subtitle A—Contracts''.

(2) COSTS NOT ALLOWED UNDER CERTAIN CONTRACTS.—Section 1534 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 774), as amended by section 3131 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1238), is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4801;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) in the section heading, by adding a period at the end; and

(ii) in subsection (b)(1), by striking ''the date of the enactment of this Act,'' and inserting ''November 8, 1985,''.

(3) PROHIBITION ON BONUSES TO CONTRACTORS OPERATING DEFENSE NUCLEAR FACILITIES.—Section 3151 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4802;

(C) inserted after section 4801, as added by paragraph (2); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking ''the date of the enactment of this Act'' and inserting ''November 29, 1989'';

(iii) in subsection (b), by striking ''6 months after the date of the enactment of this Act,'' and inserting ''May 29, 1990,''; and

(iv) in subsection (d), by striking ''90 days after the date of the enactment of this Act'' and inserting ''March 1, 1990''.

(4) CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING FROM ATOMIC WEAPONS TESTING PROGRAMS.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1837) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4803;

(C) inserted after section 4802, as added by paragraph (3); and

(D) amended—

(i) in the section heading, by adding a period at the end; and

(ii) in subsection (d), by striking ''the date of the enactment of this Act'' each place it appears and inserting ''November 5, 1990,''.

(5) SUBTITLE HEADING ON RESEARCH AND DEVELOPMENT.—Title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle B—Research and Development''.

(6) LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1832) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4811;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (5); and

(D) amended in the section heading by adding a period at the end.

(7) LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—

(A) LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038) is—

(i) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4812;

(iii) inserted after section 4811, as added by paragraph (6); and

(iv) amended—

(I) in subsection (b), by striking ''section 3136(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2831; 42 U.S.C. 7257b)'' and inserting ''section 4812A(b)'';

(II) in subsection (d)—

(aa) by striking ''section 3136(b)(1)'' and inserting ''section 4812A(b)(1)''; and

(bb) by striking ''section 3132(c) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(c))'' and inserting ''section 4811(c)''; and

(III) in subsection (e), by striking ''section 3132(d) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(d))'' and inserting ''section 4811(d)''.

(B) LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830), as amended by section 3137 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038), is—

(i) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4812A;

(iii) inserted after section 4812, as added by paragraph (7); and

(iv) amended in subsection (a) by inserting ''of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)'' after ''section 3101''.

(8) CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 3136 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1577), as amended by section 203(b)(3) of Public Law 103–35 (107 Stat. 102), is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4813; and

(C) inserted after section 4812A, as added by paragraph (7)(B).

(9) UNIVERSITY-BASED RESEARCH COLLABORATION PROGRAM.—Section 3155 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2044) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4814;

(C) inserted after section 4813, as added by paragraph (8); and

(D) amended in subsection (c) by striking ''this title'' and inserting ''title XXXI of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)''.

(10) SUBTITLE HEADING ON FACILITIES MANAGEMENT.—Title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle C—Facilities Management''.

(11) TRANSFERS OF REAL PROPERTY AT CERTAIN FACILITIES.—Section 3158 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2046) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4831; and

(C) inserted after the heading for subtitle C of such title, as added by paragraph (10).

(12) ENGINEERING AND MANUFACTURING RESEARCH, DEVELOPMENT, AND DEMONSTRATION AT CERTAIN NUCLEAR WEAPONS PRODUCTION PLANTS.—Section 3156 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–467) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4832; and

(C) inserted after section 4831, as added by paragraph (11).

(13) PILOT PROGRAM ON USE OF PROCEEDS OF DISPOSAL OR UTILIZATION OF CERTAIN ASSETS.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2039) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4833;

(C) inserted after section 4832, as added by paragraph (12); and

(D) amended in subsection (d) by striking ''sections 202 and 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484(j))'' and inserting ''subchapter II of chapter 5 and section 549 of title 40, United States Code,''.

(14) SUBTITLE HEADING ON OTHER MATTERS.—Title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle D—Other Matters''.

(15) SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.—Subsection (f) of section 3153 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2044) is—

(A) transferred to title XLVIII of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after the heading for subtitle D of such title, as added by paragraph (14); and

(C) amended—

(i) by inserting before the text the following new section heading:

''SEC. 4851. SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.'';

(ii) by striking ''(f) SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.—''; and

(iii) by striking ''section 3161(c)(6) of the National Defense Authorization Act of Fisca Year 1993 (42 U.S.C. 7274h(c)(6))'' and inserting ''section 4604(c)(6)''.

(l) MATTERS RELATING TO PARTICULAR FACILITIES.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

''TITLE XLIX—MATTERS RELATING TO PARTICULAR FACILITIES

''Subtitle A—Hanford Reservation, Washington''.

(2) SAFETY MEASURES FOR WASTE TANKS.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1833) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4901;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking ''Within 90 days after the date of the enactment of this Act,'' and inserting ''Not later than February 3, 1991,'';

(iii) in subsection (b), by striking ''Within 120 days after the date of the enactment of this Act,'' and inserting ''Not later than March 5, 1991,'';

(iv) in subsection (c), by striking ''Beginning 120 days after the date of the enactment of this Act,'' and inserting ''Beginning March 5, 1991,''; and

(v) in subsection (d), by striking ''Within six months of the date of the enactment of this Act,'' and inserting ''Not later than May 5, 1991,''.

(3) PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD RESERVATION.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834), as amended by section 3138 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3087), is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4902;

(C) inserted after section 4901, as added by paragraph (2); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking ''this title'' and inserting ''title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510)''; and

(iii) in subsection (c)—

(I) in paragraph (2), by striking ''six months after the date of the enactment of this Act,'' and inserting ''May 5, 1991,''; and

(II) in paragraph (3), by striking ''18 months after the date of the enactment of this Act,'' and inserting ''May 5, 1992,''.

(4) WASTE TANK CLEANUP PROGRAM.—Section 3139 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2250), as amended by section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–463) and section 3135 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1368), is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4903;

(C) inserted after section 4902, as added by paragraph (3); and

(D) amended in subsection (d) by striking ''30 days after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001,'' and inserting ''November 29, 2000,''.

(5) RIVER PROTECTION PROJECT.—Subsection (a) of section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–462) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4903, as added by paragraph (4); and

(C) amended—

(i) by inserting before the text the following new section heading:

''SEC. 4904. RIVER PROTECTION PROJECT.''; *and*

(ii) by striking ''(a) REDESIGNATION OF PROJECT.—''.

(6) FUNDING FOR TERMINATION COSTS OF RIVER PROTECTION PROJECT.—Section 3131 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–454) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4905;

(C) inserted after section 4904, as added by paragraph (5); and

(D) amended—

(i) by striking ''section 3141'' and inserting ''section 4904''; and

(ii) by striking ''the date of the enactment of this Act'' and inserting ''October 30, 2000''.

(7) SUBTITLE HEADING ON SAVANNAH RIVER SITE, SOUTH CAROLINA.—Title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

''Subtitle B—Savannah River Site, South Carolina''.

(8) ACCELERATED SCHEDULE FOR ISOLATING HIGH-LEVEL NUCLEAR WASTE AT DEFENSE WASTE

PROCESSING FACILITY.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2834) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as 4911; and

(C) inserted after the heading for subtitle B of such title, as added by paragraph (7).

(9) MULTI-YEAR PLAN FOR CLEAN-UP.—Subsection (e) of section 3142 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2834) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4911, as added by paragraph (8); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4912. MULTI-YEAR PLAN FOR CLEAN-UP."; and

(ii) by striking ''(e) MULTI-YEAR PLAN FOR CLEAN-UP AT SAVANNAH RIVER SITE.—The Secretary'' and inserting ''The Secretary of Energy''.

(10) CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.—

(A) FISCAL YEAR 2001.—Subsection (a) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat 1654A–460) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4912, as added by paragraph (9); and

(iii) amended—

(I) by inserting before the text the following new section heading:

"SEC. 4913. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS."; and

(II) by striking ''(a) CONTINUATION.—''.

(B) FISCAL YEAR 2000.—Section 3132 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 924) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4913A; and

(iii) inserted after section 4913, as added by subparagraph (A).

(C) FISCAL YEAR 1999.—Section 3135 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2248) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4913B; and

(iii) inserted after section 4913A, as added by subparagraph (B).

(D) FISCAL YEAR 1998.—Subsection (b) of section 3136 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4913B, as added by subparagraph (C); and

(iii) amended—

(I) by inserting before the text the following new section heading:

"SEC. 4913C. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS."; and

(II) by striking ''(b) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.—''.

(E) FISCAL YEAR 1997.—Subsection (f) of section 3142 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4913C, as added by subparagraph (D); and

(iii) amended—

(I) by inserting before the text the following new section heading:

"SEC. 4913D. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.";

(II) by striking ''(f) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.—The Secretary'' and inserting ''The Secretary of Energy''; and

(III) by striking ''subsection (e)'' and inserting ''section 4912''.

(11) LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.—Subsection (b) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–460) is—

(A) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4913D, as added by paragraph (10)(E); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4914. LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.";

(ii) by striking ''(b) LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.—'';

(iii) by striking ''this or any other Act'' and inserting ''the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) or any other Act''; and

(iv) by striking ''the Secretary'' in the matter preceding paragraph (1) and inserting ''the Secretary of Energy''.

(12) DISPOSITION OF PLUTONIUM.—

(A) DISPOSITION OF WEAPONS USABLE PLUTONIUM.—Section 3182 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2747) is—

(i) transferred to title XLIX of division D of such Act, as amended by this subsection;

(ii) redesignated as section 4915; and

(iii) inserted after section 4914, as added by paragraph (11).

(B) DISPOSITION OF SURPLUS DEFENSE PLUTONIUM.—Section 3155 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1378) is—

(i) transferred to title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4915A; and

(iii) inserted after section 4915, as added by subparagraph (A).

(13) SUBTITLE HEADING ON OTHER FACILITIES.—Title XLIX of division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Other Facilities".

(14) PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA TEST SITE.—Section 3144 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2838) is—

(A) transferred to title XLIX of division D of such Act, as amended by this subsection;

(B) redesignated as section 4921; and

(C) inserted after the heading for subtitle C of such title, as added by paragraph (13).

(m) CONFORMING AMENDMENTS.—(1) Title XXXVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 1756) is repealed.

(2) Subtitle E of title XXXI of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h et seq.) is repealed.

(3) Section 8905a(d)(5)(A) of title 5, United States Code, is amended by striking ''section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (42 U.S.C. 7274n)'' and inserting ''section 4421 of the Atomic Energy Defense Act''.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2004, $19,559,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2004, the National Defense Stockpile Manager may obligate up to $69,701,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. REVISIONS TO OBJECTIVES FOR RECEIPTS FOR FISCAL YEAR 2000 DISPOSALS.

(a) IN GENERAL.—Section 3402(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 972; 59 U.S.C. 98d note) is amended—

(1) by striking ''and'' at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting the following new paragraphs:

''(3) $310,000,000 before the end of fiscal year 2008; and

''(4) $320,000,000 before the end of fiscal year 2009.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2003, or the date of the enactment of this Act, whichever is later.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $16,500,000 for fiscal year 2004 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

Subtitle A—General Provisions

SEC. 3501. SHORT TITLE.

This title may be cited as the ''Maritime Security Act of 2003''.

SEC. 3502. DEFINITIONS.

In this subtitle:

(1) BULK CARGO.—The term ''bulk cargo'' means cargo that is loaded and carried in bulk without mark or count.

(2) CONTRACTOR.—The term ''contractor'' means an owner or operator of a vessel that enters into an operating agreement for the vessel with the Secretary under section 3512.

(3) FLEET.—The term ''Fleet'' means the Maritime Security Fleet established under section 3511(a).

(4) FOREIGN COMMERCE.—The term ''foreign commerce''—

(A) subject to subparagraph (B), means commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country; and

(B) includes, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit United States-documented vessels freely to compete with foreign-flag bulk carrying vessels in their operation or in competing for charters, subject to rules and regulations promulgated by the Secretary of Transportation pursuant to subtitle B or C.

(5) FORMER PARTICIPATING FLEET VESSEL.—The term ''former participating fleet vessel'' means—

(A) any vessel that—

(i) on October 1, 2005—

(I) will meet the requirements of paragraph (1), (2), (3), or (4) of section 3511(c); and

(II) will be less than 25 years of age, or less than 30 years of age in the case of a LASH vessel; and

(ii) on December 31, 2003, is covered by an operating agreement under subtitle B of title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1187 et seq.); and

(B) any vessel that—

(i) is a replacement for a vessel described in subparagraph (A);

(ii) is controlled by the person that controls such replaced vessel;

(iii) is eligible to be included in the Fleet under section 3511(b);

(iv) is approved by the Secretary and the Secretary of Defense; and

(v) begins operation under an operating agreement under subtitle B by not later than the end of the 30-month period beginning on the date the operating agreement is entered into by the Secretary.

(6) LASH VESSEL.—The term ''LASH vessel'' means a lighter aboard ship vessel.

(7) PERSON.—The term ''person'' includes corporations, partnerships, and associations existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.

(8) PRODUCT TANK VESSEL.—The term ''product tank vessel'' means a double hulled tank vessel capable of carrying simultaneously more than 2 separated grades of refined petroleum products.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(10) UNITED STATES.—The term ''United States'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands.

(11) UNITED STATES-DOCUMENTED VESSEL.—The term ''United States-documented vessel'' means a vessel documented under chapter 121 of title 46, United States Code.

Subtitle B—Maritime Security Fleet

SEC. 3511. ESTABLISHMENT OF MARITIME SECURITY FLEET.

(a) IN GENERAL.—The Secretary of Transportation shall establish a fleet of active, militarily useful, privately owned vessels to meet national defense and other security requirements and maintain a United States presence in international commercial shipping. The Fleet shall consist of privately owned, United States-documented vessels for which there are in effect operating agreements under this subtitle, and shall be known as the Maritime Security Fleet.

(b) VESSEL ELIGIBILITY.—A vessel is eligible to be included in the Fleet if—

(1) the vessel meets the requirements of paragraph (1), (2), (3), or (4) of subsection (c);

(2) the vessel is operated (or in the case of a vessel to be constructed, will be operated) in providing transportation in foreign commerce;

(3) the vessel is self-propelled and is—

(A) a roll-on/roll-off vessel with a carrying capacity of at least 80,000 square feet or 500 twenty-foot equivalent units and that is 15 years of age or less on the date the vessel is included in the Fleet;

(B) a tank vessel that is constructed in the United States after the date of the enactment of this subtitle;

(C) a tank vessel that is 10 years of age or less on the date the vessel is included in the Fleet;

(D) a LASH vessel that is 25 years of age or less on the date the vessel is included in the Fleet; or

(E) any other type of vessel that is 15 years of age or less on the date the vessel is included in the Fleet;

except that the Secretary of Transportation shall waive the application of an age restriction under this paragraph if the waiver is requested by the Secretary of Defense;

(4) the vessel is determined by the Secretary of Defense to be suitable for use by the United States for national defense or military purposes in time of war or national emergency; and

(5) the vessel—

(A) is a United States-documented vessel; or

(B) is not a United States-documented vessel, but—

(i) the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of title 46, United States Code, if it is included in the Fleet; and

(ii) at the time an operating agreement for the vessel is entered into under this subtitle, the vessel is eligible for documentation under chapter 121 of title 46, United States Code.

(c) REQUIREMENTS REGARDING CITIZENSHIP OF OWNERS AND CHARTERERS.—

(1) VESSEL OWNED AND OPERATED BY SECTION 2 CITIZENS.—A vessel meets the requirements of this paragraph if, during the period of an operating agreement under this subtitle that applies to the vessel, the vessel will be owned and operated by persons one or more persons that are citizens of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802).

(2) VESSEL OWNED BY SECTION 2 CITIZEN AND CHARTERED TO DOCUMENTATION CITIZEN.—A vessel meets the requirements of this paragraph if—

(A) during the period of an operating agreement under this subtitle that applies to the vessel, the vessel will be—

(i) owned by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); and

(ii) demise chartered to a person—

(I) that is eligible to document the vessel under chapter 121 of title 46, United States Code;

(II) the chairman of the board of directors, chief executive officer, and a majority of the members of the board of directors of which are citizens of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), and are appointed and subjected to removal only upon approval by the Secretary; and

(III) that certifies that there are no treaties, statutes, regulations, or other laws that would prohibit the contractor for the vessel from performing its obligations under an operating agreement under this subtitle; and

(B) in the case of a vessel that will be chartered to a person that is owned or controlled by another person that is not a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), the other person enters into an agreement with the Secretary not to influence the operation of the vessel in a manner that will adversely affect the interests of the United States.

(3) VESSEL OWNED AND OPERATED BY DEFENSE CONTRACTOR.—A vessel meets the requirements of this paragraph if, during the period of an operating agreement under this subtitle that applies to the vessel, the vessel will be owned and operated by one or more persons that—

(A) are eligible to document a vessel under chapter 121 of title 46, United States Code;

(B) operates or manages other United States-documented vessels for the Secretary of Defense, or charters other vessels to the Secretary of Defense;

(C) has entered into a Special Security Agreement for purposes of this paragraph with the Secretary of Defense;

(D) makes the certification described in paragraph (2)(A)(ii)(III); and

(E) in the case of a vessel described in paragraph (2)(B), enters into an agreement referred to in that paragraph.

(4) VESSEL OWNED BY DOCUMENTATION CITIZEN AND CHARTERED TO SECTION 2 CITIZEN.—A vessel meets the requirements of this paragraph if, during the period of an operating agreement under this subtitle that applies to the vessel, the vessel will be—

(A) owned by a person that is eligible to document a vessel under chapter 121 of title 46, United States Code; and

(B) demise chartered to a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802).

(d) REQUEST BY SECRETARY OF DEFENSE.—The Secretary of Defense shall request the Secretary of Homeland Security to issue any waiver under the first section of Public Law 81–891 (64 Stat. 1120; 46 App. U.S.C. note prec. 3) that is necessary for purposes of this subtitle.

SEC. 3512. AWARD OF OPERATING AGREEMENTS.

(a) IN GENERAL.—The Secretary shall require, as a condition of including any vessel in the Fleet, that the person that is the owner or charterer of the vessel for purposes of section 3511(c) enter into an operating agreement with the Secretary under this section.

(b) PROCEDURE FOR APPLICATIONS.—

(1) ACCEPTANCE OF APPLICATIONS.—Beginning no later than 30 days after the effective date of this subtitle, the Secretary shall accept applications for enrollment of vessels in the Fleet.

(2) ACTION ON APPLICATIONS.—Within 90 days after receipt of an application for enrollment of a vessel in the Fleet, the Secretary shall enter into an operating agreement with the applicant or provide in writing the reason for denial of that application.

(c) PRIORITY FOR AWARDING AGREEMENTS.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall enter into operating agreements according to the following priority:

(A) NEW TANK VESSELS.—First, for any tank vessel that—

(i) is constructed in the United States after the effective date of this subtitle;

(ii) is eligible to be included in the Fleet under section 3511(b); and

(iii) during the period of an operating agreement under this subtitle that applies to the vessel, will be owned and operated by one or more persons that are citizens of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802),

except that the Secretary shall not enter into operating agreements under this subparagraph for more than 5 such vessels.

(B) FORMER PARTICIPATING VESSELS.—Second, to the extent amounts are available after applying subparagraphs (A), for any former participating fleet vessel, except that the Secretary

shall not enter into operating agreements under this subparagraph for more than 47 vessels.

(C) CERTAIN VESSELS OPERATED BY SECTION 2 CITIZENS.—Third, to the extent amounts are available after applying subparagraphs (A) and (B), for any other vessel that is eligible to be included in the Fleet under section 3511(b), and that, during the period of an operating agreement under this subtitle that applies to the vessel, will be—

(i) owned and operated by one or more persons that are citizens of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); or

(ii) owned by a person that is eligible to document the vessel under chapter 121 of title 46, United States Code, and operated by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802).

(D) OTHER ELIGIBLE VESSELS.—Fourth, to the extent amounts are available after applying subparagraphs (A), (B), and (C), for any other vessel that is eligible to be included in the Fleet under section 3511(b).

(2) REDUCTION IN NUMBER OF SLOTS FOR FORMER PARTICIPATING FLEET VESSELS.—The number in paragraph (1)(B) shall be reduced by 1—

(A) for each former participating fleet vessel for which an application for enrollment in the Fleet is not received by the Secretary within the 90-day period beginning on the effective date of this subtitle; and

(B) for each former participating fleet vessel for which an application for enrollment in the Fleet received by the Secretary is not approved by the Secretary of Defense within the 90-day period beginning on the date of such receipt.

(3) DISCRETION WITHIN PRIORITY.—The Secretary—

(A) subject to subparagraph (B), may award operating agreements within each priority under paragraph (1) as the Secretary considers appropriate; and

(B) shall award operating agreement within a priority—

(i) in accordance with operational requirements specified by the Secretary of Defense; and

(ii) subject to the approval of the Secretary of Defense.

(4) TREATMENT OF TANK VESSEL TO BE REPLACED.—(A) For purposes of the application of paragraph (1)(A) with respect to the award of an operating agreement, the Secretary may treat an existing tank vessel that is eligible to be included in the Fleet under section 3511(b) as a vessel that is constructed in the United States after the effective date of this subtitle, if—

(i) a binding contract for construction in the United States of a replacement vessel to be operated under the operating agreement is executed by not later than 9 months after the first date amounts are available to carry out this subtitle; and

(ii) the replacement vessel is eligible to be included in the Fleet under section 3511(b).

(B) No payment under this subtitle may be made for an existing tank vessel for which an operating agreement is awarded under this paragraph after the earlier of—

(i) 4 years after the first date amounts are available to carry out this subtitle; or

(ii) the date of delivery of the replacement tank vessel.

(d) LIMITATION.—The Secretary may not award operating agreements under this subtitle that require payments under section 3515 for a fiscal year for more than 60 vessels.

SEC. 3513. EFFECTIVENESS OF OPERATING AGREEMENTS.

(a) EFFECTIVENESS, GENERALLY.—The Secretary may enter into an operating agreement under this subtitle for fiscal year 2006. Except as provided in subsection (b), the agreement shall be effective only for 1 fiscal year, but shall be renewable, subject to the availability of appropriations, for each subsequent fiscal year through the end of fiscal year 2015.

(b) VESSELS UNDER CHARTER TO U.S.—Unless an earlier date is requested by the applicant, the effective date for an operating agreement with respect to a vessel that is, on the date of entry into an operating agreement, on charter to the United States Government, other than a charter pursuant to an Emergency Preparedness Agreement under section 3516, shall be the expiration or termination date of the Government charter covering the vessel, or any earlier date the vessel is withdrawn from that charter.

(c) TERMINATION.—

(1) IN GENERAL.—If the contractor with respect to an operating agreement fails to comply with the terms of the agreement—

(A) the Secretary shall terminate the operating agreement; and

(B) any budget authority obligated by the agreement shall be available to the Secretary to carry out this subtitle.

(2) EARLY TERMINATION.—An operating agreement under this subtitle shall terminate on a date specified by the contractor if the contractor notifies the Secretary, by not later than 60 days before the effective date of the termination, that the contractor intends to terminate the agreement.

(d) NONRENEWAL FOR LACK OF FUNDS.—

(1) NOTIFICATION OF CONGRESS.—If, by the first day of a fiscal year, sufficient funds have not been appropriated under the authority provided by this subtitle for that fiscal year, then the Secretary shall notify the Congress that operating agreements authorized under this subtitle for which sufficient funds are not available will not be renewed for that fiscal year if sufficient funds are not appropriated by the 60th day of that fiscal year.

(2) RELEASE OF VESSELS FROM OBLIGATIONS.—If funds are not appropriated under the authority provided by this subtitle for any fiscal year by the 60th day of that fiscal year, then each vessel covered by an operating agreement under this subtitle for which funds are not available—

(A) is thereby released from any further obligation under the operating agreement;

(B) the owner or operator of the vessel may transfer and register such vessel under a foreign registry that is acceptable to the Secretary of Transportation and the Secretary of Defense, notwithstanding section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808); and

(C) if section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242) is applicable to such vessel after registration of the vessel under such a registry, then the vessel is available to be requisitioned by the Secretary of Transportation pursuant to section 902 of such Act.

SEC. 3514. OBLIGATIONS AND RIGHTS UNDER OPERATING AGREEMENTS.

(a) OPERATION OF VESSEL.—An operating agreement under this subtitle shall require that, during the period a vessel is operating under the agreement—

(1) the vessel—

(A) shall be operated exclusively in the foreign commerce or in mixed foreign commerce and domestic trade allowed under a registry endorsement issued under section 12105 of title 46, United States Code; and

(B) shall not otherwise be operated in the coastwise trade; and

(2) the vessel shall be documented under chapter 121 of title 46, United States Code.

(b) ANNUAL PAYMENTS BY SECRETARY.—

(1) IN GENERAL.—An operating agreement under this subtitle shall require, subject to the availability of appropriations, that the Secretary make a payment each fiscal year to the contractor in accordance with section 3515.

(2) OPERATING AGREEMENT IS OBLIGATION OF UNITED STATES GOVERNMENT.—An operating agreement under this subtitle constitutes a contractual obligation of the United States Government to pay the amounts provided for in the agreement to the extent of actual appropriations.

(c) DOCUMENTATION REQUIREMENT.—Each vessel covered by an operating agreement (including an agreement terminated under section 3513(c)(2)) shall remain documented under chapter 121 of title 46, United States Code, until the date the operating agreement would terminate according to its terms.

(d) NATIONAL SECURITY REQUIREMENTS.—

(1) IN GENERAL.—A contractor with respect to an operating agreement (including an agreement terminated under section 3513(c)(2)) shall continue to be bound by the provisions of section 3516 until the date the operating agreement would terminate according to its terms.

(2) EMERGENCY PREPAREDNESS AGREEMENT.—All terms and conditions of an Emergency Preparedness Agreement entered into under section 3516 shall remain in effect until the date the operating agreement would terminate according to its terms, except that the terms of such Emergency Preparedness Agreement may be modified by the mutual consent of the contractor and the Secretary of Transportation and the Secretary of Defense.

(e) TRANSFER OF OPERATING AGREEMENTS.—A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the agreement) to any person that is eligible to enter into that operating agreement under this subtitle, if the transfer is approved by the Secretary and the Secretary of Defense.

SEC. 3515. PAYMENTS.

(a) ANNUAL PAYMENT.—

(1) IN GENERAL.—The Secretary, subject to the availability of appropriations and the other provisions of this section, shall pay to the contractor for an operating agreement, for each vessel that is covered by the operating agreement, an amount equal to—

(A) $2,600,000 for each of fiscal years 2006 and 2007, and

(B) such amount, not less than $2,600,000, for each fiscal year thereafter for which the agreement is in effect as the Secretary, with the concurrence of the Secretary of Defense, considers to be necessary to meet the operational requirements of the Secretary of Defense.

(2) TIMING.—The amount shall be paid in equal monthly installments at the end of each month. The amount shall not be reduced except as provided by this section.

(b) CERTIFICATION REQUIRED FOR PAYMENT.—As a condition of receiving payment under this section for a fiscal year for a vessel, the contractor for the vessel shall certify, in accordance with regulations issued by the Secretary, that the vessel has been and will be operated in accordance with section 3514(a)(1) for at least 320 days in the fiscal year. Days during which the vessel is drydocked, surveyed, inspected, or repaired shall be considered days of operation for purposes of this subsection.

(c) LIMITATIONS.—The Secretary of Transportation shall not make any payment under this subtitle for a vessel with respect to any days for which the vessel is—

(1) under a charter to the United States Government, other than a charter pursuant to an Emergency Preparedness Agreement under section 3516;

(2) not operated or maintained in accordance with an operating agreement under this subtitle; or

(3) more than—

(A) 25 years of age, except as provided in subparagraph (B) or (C);

(B) 20 years of age, in the case of a tank vessel; or

(C) 30 years of age, in the case of a LASH vessel.

(d) REDUCTIONS IN PAYMENTS.—With respect to payments under this subtitle for a vessel covered by an operating agreement, the Secretary—

(1) except as provided in paragraph (2), shall not reduce any payment for the operation of the vessel to carry military or other preference cargoes under section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 App. U.S.C.

1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(a), 1241(b), or 1241f), or any other cargo preference law of the United States;

(2) shall not make any payment for any day that the vessel is engaged in transporting more than 7,500 tons of civilian bulk preference cargoes pursuant to section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(a), 1241(b), or 1241f), that is cargo; and

(3) shall make a pro rata reduction in payment for each day less than 320 in a fiscal year that the vessel is not operated in accordance with section 3514(a)(1), with days during which the vessel is drydocked or undergoing survey, inspection, or repair considered to be days on which the vessel is operated.

SEC. 3516. NATIONAL SECURITY REQUIREMENTS.

(a) EMERGENCY PREPAREDNESS AGREEMENT REQUIRED.—The Secretary shall establish an Emergency Preparedness Program under this section that is approved by the Secretary of Defense. Under the program, the Secretary shall include in each operating agreement under this subtitle a requirement that the contractor enter into an Emergency Preparedness Agreement under this section with the Secretary. The Secretary shall negotiate and enter into an Emergency Preparedness Agreement with each contractor as promptly as practicable after the contractor has entered into an operating agreement under this subtitle.

(b) TERMS OF AGREEMENT.—

(1) IN GENERAL.—An Emergency Preparedness Agreement under this section shall require that upon a request by the Secretary of Defense during time of war or national emergency, or whenever determined by the Secretary of Defense to be necessary for national security or contingency operation (as that term is defined in section 101 of title 10, United States Code), a contractor for a vessel covered by an operating agreement under this subtitle shall make available commercial transportation resources (including services).

(2) BASIC TERMS.—(A) The basic terms of the Emergency Preparedness Agreement shall be established (subject to subparagraph (B)) pursuant to consultations among the Secretary and the Secretary of Defense.

(B) In any Emergency Preparedness Agreement, the Secretary and a contractor may agree to additional or modifying terms appropriate to the contractor's circumstances if those terms have been approved by the Secretary of Defense.

(c) PARTICIPATION AFTER EXPIRATION OF OPERATING AGREEMENT.—Except as provided by section 3514(c), the Secretary may not require, through an Emergency Preparedness Agreement or operating agreement, that a contractor continue to participate in an Emergency Preparedness Agreement after the operating agreement with the contractor has expired according to its terms or is otherwise no longer in effect. After expiration of an Emergency Preparedness Agreement, a contractor may volunteer to continue to participate in such an agreement.

(d) RESOURCES MADE AVAILABLE.—The commercial transportation resources to be made available under an Emergency Preparedness Agreement shall include vessels or capacity in vessels, intermodal systems and equipment, terminal facilities, intermodal and management services, and other related services, or any agreed portion of such nonvessel resources for activation as the Secretary of Defense may determine to be necessary, seeking to minimize disruption of the contractor's service to commercial shippers.

(e) COMPENSATION.—

(1) IN GENERAL.—The Secretary shall include in each Emergency Preparedness Agreement provisions approved by the Secretary of Defense under which the Secretary of Defense shall pay fair and reasonable compensation for all commercial transportation resources provided pursuant to this section.

(2) SPECIFIC REQUIREMENTS.—Compensation under this subsection—

(A) shall not be less than the contractor's commercial market charges for like transportation resources;

(B) shall be fair and reasonable considering all circumstances;

(C) shall be provided from the time that a vessel or resource is required by the Secretary of Defense until the time that it is redelivered to the contractor and is available to reenter commercial service; and

(D) shall be in addition to and shall not in any way reflect amounts payable under section 3515.

(f) TEMPORARY REPLACEMENT VESSELS.—Notwithstanding section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 App. U.S.C. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(a), 1241(b), or 1241f), or any other cargo preference law of the United States—

(1) a contractor may operate or employ in foreign commerce a foreign-flag vessel or foreign-flag vessel capacity as a temporary replacement for a United States-documented vessel or United States-documented vessel capacity that is activated by the Secretary of Defense under an Emergency Preparedness Agreement or under a primary Department of Defense-approved sealift readiness program; and

(2) such replacement vessel or vessel capacity shall be eligible during the replacement period to transport preference cargoes subject to section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 App. U.S.C. 1241–1), and sections 901(a), 901(b), and 901b of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(a), 1241(b), and 1241b) to the same extent as the eligibility of the vessel or vessel capacity replaced.

(g) REDELIVERY AND LIABILITY OF U.S. FOR DAMAGES.—

(1) IN GENERAL.—All commercial transportation resources activated under an Emergency Preparedness Agreement shall, upon termination of the period of activation, be redelivered to the contractor in the same good order and condition as when received, less ordinary wear and tear, or the Secretary of Defense shall fully compensate the contractor for any necessary repair or replacement.

(2) LIMITATION ON LIABILITY OF U.S.—Except as may be expressly agreed to in an Emergency Preparedness Agreement, or as otherwise provided by law, the Government shall not be liable for disruption of a contractor's commercial business or other consequential damages to a contractor arising from activation of commercial transportation resources under an Emergency Preparedness Agreement.

SEC. 3517. REGULATORY RELIEF.

(a) OPERATION IN FOREIGN COMMERCE.—A contractor for a vessel included in an operating agreement under this subtitle may operate the vessel in the foreign commerce of the United States without restriction.

(b) OTHER RESTRICTIONS.—The restrictions of section 901(b)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)(1)) concerning the building, rebuilding, or documentation of a vessel in a foreign country shall not apply to a vessel for any day the operator of that vessel is receiving payments for operation of that vessel under an operating agreement under this subtitle.

SEC. 3518. SPECIAL RULE REGARDING AGE OF FORMER PARTICIPATING FLEET VESSEL.

Sections 3511(b)(3) and 3515(c)(3) shall not apply to a former participating fleet vessel described in section 3502(5)(A), during the 30-month period referred to in section 3502(5)(B)(v) with respect to the vessel, if the Secretary determines that the contractor for the vessel has entered into an arrangement to obtain and operate under the operating agreement for the former participating fleet vessel a replacement vessel that, upon commencement of such operation, will be eligible to be included in the Fleet under section 3511(b).

SEC. 3519. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for payments under section 3515, to remain available until expended, $156,000,000 for each of fiscal years 2006 and 2007, and such sums as may be necessary for each fiscal year thereafter through fiscal year 2015.

SEC. 3520. AMENDMENT TO SHIPPING ACT, 1916.

Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) is amended by adding at the end the following:

''(e) Notwithstanding subsection (c)(2), the Merchant Marine Act, 1936, or any contract entered into with the Secretary of Transportation under that Act, a vessel may be placed under a foreign registry, without approval of the Secretary, if—

''(1)(A) the Secretary, with the concurrence of the Secretary of Defense, determines that at least one replacement vessel of like capability and of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of title 46, United States Code, by the owner of the vessel placed under the foreign registry; and

''(B) the replacement vessel is not more than 10 years of age on the date of that documentation; and

''(2) an operating agreement covering the vessel under the Maritime Security Act of 2003 has expired.''.

SEC. 3521. REGULATIONS.

(a) IN GENERAL.—The Secretary of Transportation and the Secretary of Defense may each prescribe rules as necessary to carry out this subtitle and the amendments made by this subtitle.

(b) INTERIM RULES.—The Secretary of Transportation and the Secretary of Defense may each prescribe interim rules necessary to carry out this subtitle and the amendments made by this subtitle. For this purpose, the Secretaries are excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All interim rules prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire no later than 270 days after the effective date of this subtitle.

SEC. 3522. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The following provisions are repealed:

(1) Subtitle B of title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1187 et seq.).

(2) Section 804 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1222).

(b) CONFORMING AMENDMENT.—Section 12102(d)(4) of title 46, United States Code, is amended by inserting ''or section 3511(b) of the Maritime Security Act of 2003'' after ''Merchant Marine Act, 1936''.

SEC. 3523. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this subtitle shall take effect October 1, 2004.

(b) REPEALS AND CONFORMING AMENDMENTS.—Section 3522 shall take effect October 1, 2005.

(c) REGULATIONS.—Section 3521 and this section shall take effect on the date of the enactment of this Act.

Subtitle C—National Defense Tank Vessel Construction Assistance

SEC. 3531. NATIONAL DEFENSE TANK VESSEL CONSTRUCTION PROGRAM.

The Secretary of Transportation shall establish a program for the provision of financial assistance for the construction in the United States of a fleet of up to 5 privately owned product tank vessels—

(1) to be operated in commercial service in foreign commerce; and

(2) to be available for national defense purposes in time of war or national emergency pursuant to an Emergency Preparedness Plan approved by the Secretary of Defense pursuant to section 3533(e) of this subtitle.

SEC. 3532. APPLICATION PROCEDURE. –

(a) REQUEST FOR PROPOSALS.—Within 90 days after the date of the enactment of this subtitle, and on an as-needed basis thereafter, the Secretary, in consultation with the Secretary of Defense, shall publish in the Federal Register a request for competitive proposals for the construction of new product tank vessels necessary to meet the commercial and national security needs of the United States and to be built with assistance under this subtitle.

(b) QUALIFICATION.—Any citizen of the United States or any shipyard in the United States may submit a proposal to the Secretary of Transportation for purposes of constructing a product tank vessel with assistance under this subtitle.

(c) REQUIREMENT.—The Secretary, with the concurrence of the Secretary of Defense, may enter into an agreement with the submitter of a proposal for assistance under this subtitle if the Secretary determines that—

(1) the plans and specifications call for construction of a new product tank vessel of not less than 35,000 deadweight tons and not greater than 60,000 deadweight tons, that—

(A) will meet the requirements of foreign commerce;

(B) is capable of carrying militarily useful petroleum products, and will be suitable for national defense or military purposes in time of war, national emergency, or other military contingency; and

(C) will meet the construction standards necessary to be documented under the laws of the United States;

(2) the shipyard in which the vessel will be constructed has the necessary capacity and expertise to successfully construct the proposed number and type of product tank vessels in a reasonable period of time as determined by the Secretary of Transportation, taking into consideration the recent prior commercial shipbuilding history of the proposed shipyard in delivering a vessel or series of vessels on time and in accordance with the contract price and specifications; and

(3) the person proposed to be the operator of the proposed vessel possesses the ability, experience, financial resources, and any other qualifications determined to be necessary by the Secretary for the operation and maintenance of the vessel.

(d) PRIORITY.—The Secretary—

(1) subject to paragraph (2), shall give priority consideration to a proposal submitted by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); and

(2) may give priority to consideration of proposals that provide the best value to the Government, taking into consideration—

(A) the costs of vessel construction; and

(B) the commercial and national security needs of the United States.

SEC. 3533. AWARD OF ASSISTANCE.

(a) IN GENERAL.—If after review of a proposal, the Secretary determines that the proposal fulfills the requirements under this subtitle, the Secretary may enter into a contract with the proposed purchaser and the proposed shipyard for the construction of a product tank vessel with assistance under this subtitle.

(b) AMOUNT OF ASSISTANCE.—The contract shall provide that the Secretary shall pay, subject to the availability of appropriations, up to 75 percent of the actual construction cost of the vessel, but in no case more than $50,000,000 per vessel.

(c) CONSTRUCTION IN UNITED STATES.—A contract under this section shall require that construction of a vessel with assistance under this subtitle shall be performed in a shipyard in the United States.

(d) DOCUMENTATION OF VESSEL.—

(1) CONTRACT REQUIREMENT.—A contract under this section shall require that, upon delivery of a vessel constructed with assistance under the contract, the vessel shall be documented under chapter 121 of title 46, United States Code with a registry endorsement only.

(2) RESTRICTION ON COASTWISE ENDORSEMENT.—A vessel constructed with assistance under this subtitle shall not be eligible for a certificate of documentation with a coastwise endorsement.

(3) AUTHORITY TO REFLAG NOT APPLICABLE.—Section 9(e) of the Shipping Act, 1916, (46 App. U.S.C. 808(e)) shall not apply to a vessel constructed with assistance under this subtitle.

(e) EMERGENCY PREPAREDNESS AGREEMENT.—

(1) IN GENERAL.—A contract under this section shall require that the person who will be the operator of a vessel constructed with assistance under the contract shall enter into an Emergency Preparedness Agreement for the vessel under section 3516.

(2) TREATMENT AS CONTRACTOR.—For purposes of the application, under paragraph (1), of section 3516 to a vessel constructed with assistance under this subtitle, the term ''contractor'' as used in section 3516 means the person who will be the operator of a vessel constructed with assistance under this subtitle.

(f) ADDITIONAL TERMS.—The Secretary shall incorporate in the contract the requirements set forth in this subtitle, and may incorporate in the contract any additional terms the Secretary considers necessary.

SEC. 3534. PRIORITY FOR TITLE XI ASSISTANCE.

Section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273) is amended by adding at the end the following:

''(i) PRIORITY.—In guaranteeing and entering commitments to guarantee under this section, the Secretary shall give priority to guarantees and commitments for vessels that are otherwise eligible for a guarantee under this section and that are constructed with assistance under subtitle C of the Maritime Security Act of 2003.''.

SEC. 3535. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle a total of $250,000,000 for fiscal years after fiscal year 2004.

Subtitle D—Maritime Administration Authorization

SEC. 3541. AUTHORIZATION OF APPROPRIATIONS FOR MARITIME ADMINISTRATION FOR FISCAL YEAR 2004.

Funds are hereby authorized to be appropriated for fiscal year 2004, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $104,400,000, of which $13,000,000 is for capital improvements at the United States Merchant Marine Academy.

(2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), $39,498,000, of which—

(A) $35,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) $4,498,000 is for administrative expenses related to loan guarantee commitments under the program.

(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, $20,000,000.

SEC. 3542. AUTHORITY TO CONVEY VESSEL USS HOIST (ARS–40).

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel USS HOIST (ARS–40), to the Last Patrol Museum, located in Toledo, Ohio (a not-for-profit corporation, in this section referred to as the ''recipient''), for use as a military museum, if—

(1) the recipient agrees to use the vessel as a nonprofit military museum;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government when the Secretary requires use of the vessel by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a military museum—

(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State of New York, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, or lead paint after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3) or (4); and

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, and without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may also convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to restore the USS HOIST (ARS–40) to museum quality.

(d) RETENTION OF VESSEL IN NDRF.—

(1) IN GENERAL.—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(A) 2 years after the date of the enactment of this Act; or

(B) the date of conveyance of the vessel under subsection (a).

(2) LIMITATION.—Paragraph (1) does not require the Secretary to retain the vessel in the National Defense Reserve Fleet if the Secretary determines that retention of the vessel in the fleet will pose an unacceptable risk to the marine environment.

Amend the title so as to read: ''A bill to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.''.

The CHAIRMAN pro tempore. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 108–120 or those made in order by a subsequent order of the House.

Each amendment printed in the report shall be offered only in the order printed, except as specified in section 2 of the resolution, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, except that the chairman and ranking minority member each may offer one pro forma amendment for the purpose of further debate on any pending amendment, and shall not be subject to a demand for a division of the question.

The Chairman of the Committee of Whole may recognize for consideration of any amendment out of the order printed, but not sooner than 1 hour after the Chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

It is now in order to consider amendment No. 1 printed in House Report 108–120.

AMENDMENT NO. 1 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. HUNTER:

Page 34, line 15, strike the first period.

Page 90, line 17, insert open quotation marks before ''subparagraph''.

Page 99, line 7, strike the open quotation marks.

Page 125, line 5, strike ''551'' and insert ''991''.

Page 136, beginning on line 4, strike ''chapter'' and insert ''subchapter''.

Strike section 617(b)(2) (page 165, line 19, through the matter following line 6 on page 166) and insert the following:

(2) The heading of such section, and the item relating to such section in the table of sections at the beginning of chapter 40 of such title, are each amended by striking the sixth word.

Page 210, line 12, strike the single open and close quotation marks and insert double open and close quotation marks.

Page 213, line 25, insert ''of such section'' after ''Subsection (c)''.

Page 219, beginning on line 18, strike ''the end''.

Page 220, line 8, strike ''adding at the end'' and insert ''inserting after the item relating to section 2435''.

Page 227, line 5, strike ''(d)'' and insert ''(d)(3)''.

Page 229, line 14, strike ''**Unites**'' and insert ''**United**''.

Page 231, line 14, strike ''Department of'' and all that follows through ''amounts'' on line 15 and insert ''Department of Defense such amounts''.

Page 231, line 18, strike ''; and'' and insert a period.

Page 231, strike lines 19 and 20.

Page 232, in the matter after line 16, strike ''Unites'' and insert ''United''.

In section 1012(b)(1) (page 253, line 13), insert ''the end of such subsection'' after ''through''.

In section 1014(b)(1) (page 257, line 2), strike ''this title'' and insert ''title XXXV''.

Page 262, line 20, insert a one-em dash after the period.

Page 264, line 11, strike ''2216(a)'' and insert ''2216(i)''.

Page 264, line 15, insert ''(1)'' before ''Not later than''.

Page 271, line 11, strike ''striking 'by''.

Page 275, line 19, strike ''2868'' and insert ''2868(a)''.

In section 1031(d), strike paragraph (2) (page 290, lines 13-15) and insert the following:

(2) Nothing in this section shall be construed to authorize the Secretary to acquire, lease, construct, improve, renovate, remodel, repair, operate, or maintain facilities having general utility.

Page 299, line 6, strike ''after section 425'' and insert ''at the end of subchapter I (after the section added by section 805(b)(1) of this Act)''.

Page 299, line 8, strike ''**426**'' and insert ''**427**''.

Page 301, line 20, after ''at the end'' insert ''(after the item added by section 805(b)(2) of this Act''.

Page 301, in the matter after line 21, strike ''426'' and insert ''427''.

Page 303, beginning on line 11, strike ''such subchapter'' and insert ''subchapter I of such chapter''.

In section 1045(a)(7), strike ''7503(d)'' (page 310, line 16) and insert ''7305(d)''.

In section 1045(e), strike ''819'' (page 311, line 25) and insert ''819(a)''.

In section 317, strike subsection (a) (page 59, lines 18 through 21) and redesignate subsequent subsections accordingly.

In section 318, strike subsection (a) (page 61, lines 3 through 18) and insert the following new subsection:

(a) DEFINITION OF HARASSMENT FOR MILITARY READINESS ACTIVITIES.—Section 3(18) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(18)) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

''(B) In the case of a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), the term 'harassment' means—

''(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild; or

''(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered.

''(C) The term 'Level A harassment' means harassment described in subparagraph (A)(i) or, in the case of a military readiness activity, harassment described in subparagraph (B)(i).

''(D) The term 'Level B harassment' means harassment described in subparagraph (A)(ii) or, in the case of a military readiness activity, harassment described in subparagraph (B)(ii).''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 245, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 5 minutes.

□ 1615

PARLIAMENTARY INQUIRY

Mr. RAHALL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. BEREUTER). The gentleman will state it.

Mr. RAHALL. Who controls the time in opposition?

The CHAIRMAN pro tempore. A Member in opposition to the amendment.

Does the gentleman claim that time?

Mr. RAHALL. I so claim that time, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from West Virginia (Mr. RAHALL) will be recognized in opposition.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

This amendment makes a number of technical corrections that were provided by the Office of Legislative Counsel. It also clarifies several technical points that were raised after the report was filed. For example, on page 290, I have added language to make it clear that the re-leasing of office space will continue to be handled by GSA.

Beyond those corrections that I have described, the amendment also contains the walkback that the gentleman from Colorado (Mr. HEFLEY) just described with respect to the Endangered Species Act on DOD bases, saying simply that the Endangered Species Act changes are limited to the Department of Defense and that, in fact, the definition of endangered species is walked back to the language that was described by DOD when it was sent to us.

Mr. Chairman, I think it is eminently reasonable. I just pointed out a few minutes ago, with the four overlaps for the Pendleton Marine base, where American Marines practice dying for this country and they can only utilize at this time a very small portion of that 17-mile red beach because there are animals that need to be protected on that beach. Once you overlay the estuarine areas, the gnatcatcher areas and a number of other areas that have now been designated for lockout to the military or controlled use, you have an extremely diminished base in terms of training. So those very fine people that we have sent to the Middle East to carry out American foreign policy are seeing a diminished training area in the United States.

And that is across the board, Mr. Chairman. You can go to Camp Lejeune, where they now have to employ 80 biologists just to try to move these areas around, or any of the other bases, Army, Navy, Marine Corps, Air Force, and you will see that some of them are diminished up to 70, 80 percent, locked out, where the military is locked out of their own base and cannot use it for training.

This is a balance, Mr. Chairman. It is a balance that passed on a bipartisan basis, in fact, in fuller measure than what we have here out of the Committee on Resources. So I think it is absolutely appropriate that this walkback, where now only the Department of Defense is going to be able to receive this treatment, is manifested.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume, and I do rise in opposition to the Hunter amendment.

I think at this point in time there is some clarification needed as to the situation that we are in. Many Members may well be confused.

First, this same amendment was filed by the gentleman from Colorado (Mr. HEFLEY) before the Committee on Rules; and for reasons only known on the other side of the aisle in their internal machinations, it is now in order under the gentleman from California's name. We have all of 10 minutes to debate what are truly far-reaching changes to environmental law under this rule.

In fact, the amendment does make one important improvement in the language originally reported by the Committee on Resources. It strikes extraneous language that would have gutted a key provision of the Endangered Species Act. In this one case, the administration did not even request or support the language. But make no mistake about it, the rest of the Hunter amendment leaves intact all the exemptions and changes sought by the DOD, and I think that is worth repeating. It leaves intact all the exemptions and changes to the Endangered Species Act and the Marine Mammal Protection Act that the Pentagon wants. All those exemptions and changes will remain in the bill if the current Hunter amendment is adopted.

And there is one added bonus, a special bonus here. That is a special endangered species exemption that applies to only one Arizona base which is described by the Arizona Republic as a ''silly rider'' that is not even necessary. That, too, is left intact by the Hunter amendment.

Simply put, the environmental exemptions which would be codified by the Hunter amendment are overbroad and unjustified. As a May 15 article in the Chicago Tribune stated, the bill language now before us would grant the Department of Defense exemptions which would ''apply to all military facilities, including golf courses, irrigated gardens and swimming pools.'' For those of us who have spoken out against the military exemptions, this is unacceptable. The American people respect and support our military, but they do not believe nor do I believe that the Pentagon should be held unaccountable or exempt from the laws which apply to all of us.

The gentleman from Michigan (Mr. DINGELL) and I proposed a substitute that would have addressed DOD concerns about future readiness activities in an environmentally responsible manner. That amendment was supported by many major environmental organizations. But because of the Republican rule that is now being jammed down our throats, we have no opportunity to consider the Rahall-Dingell amendment. It is only the Hunter amendment, take it or leave it, which forces us to vote to endorse the military exemptions to get rid of one extraneous ESA rider.

I urge Members to vote ''no'' on the Hunter amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

I would just say this. With respect to Marine Mammal, I think the gentleman from Colorado (Mr. HEFLEY) described it best. This is a commonsense amendment. I have not met a single environmentalist who does not agree with this. That says that if you have a seal sitting on a buoy and a Navy ship goes by, if the seal even looks up, he is, according to at least one biologist in the Department of Fish and Wildlife, potentially disturbed. If you potentially disturb a seal, you cannot undertake that particular military activity.

What we are losing, Mr. Chairman, is our ability to practice our sonar capability and our new sonar equipment. That means life and death for the kids who are underneath the water in those submarines whose lives depend on being able to hear the enemy submarine before it hears them and destroys them.

So I would just say to my colleague and to all my colleagues, most of this language is what we passed with a big vote last year on a bipartisan basis. It is absolutely reasonable. It has been walked back to DOD. I would just recommend, take ''yes'' for an answer.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

I would just respond to the gentleman from California as we have responded numerous times today during this debate. There are exemptions in current law that the DOD can exercise whenever it finds conditions where national security warrants such exemptions to any environmental laws. To this date, in all reports that we have asked for, we have not seen where DOD has asked to utilize the current exemptions allowed under current law.

As we all know, our forces did a tremendous job in Iraq. We on this side of the aisle support our troops as strongly as those on the other side of the aisle, as strongly as all Americans do, and we praise the very effective job that they did. And we would add that they did it under current law.

The briefings that I have had, the briefings that I have attended for all Members of Congress, even the briefing I had with General Franks in Dohar a month or so ago, none of those briefings listed any problems that our military had with current law or the exemptions that they have to use under current law that would have in any way endangered our commanders or our military in their preparations of our troops for combat readiness, as they have been so well trained.

I say the current language works. That is what we should recognize has served our military so well and allowed them to be the great force that they are.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding me this time.

The amendment that we are debating is, I think, a pretty commonsense amendment. The military, DOD, came to us and said, we need some limited relief from the Endangered Species Act and the Marine Mammal Protection Act. This gives them essentially what they want without going outside or further than they requested. And so it seems to me that this is a good, commonsense amendment. I commend the gentleman from Colorado for bringing it forward.

Mr. RAHALL. Mr. Chairman, I yield myself the balance of my time.

In conclusion, I would state that I am supported in this effort by the ranking member of the Committee on Energy and Commerce, the gentleman from Michigan, the dean of the House. I am also supported by a number of other ranking members on our side of the aisle. The gentleman from Missouri has already made his views firmly known before this body, and he is our respected ranking member on the Committee on Armed Forces, the authorizing committee. I would just say that this issue is too important to leave all critical habitat designations as subject to the whims and caprices of the Secretary. I would urge the defeat of the amendment.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, there is no exemption for the Marine Mammal Act, so that is one reason why it has not been sought. I would just say there is one endangered species that this provision protects and that is the 19-year-old Marine or soldier or airman who needs adequate training and right now is seeing his training areas diminished by conservationism and environmentalism. Let us give conservation and environmentalism a good name and let us balance those two important goals with another goal which is keeping our men and women in uniform alive when they are in combat.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. RAHALL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. HUNTER) will be postponed.

It is now in order to consider amendment No. 2 printed in House Report 108–120.

AMENDMENT NO. 2 OFFERED BY MR. GOODE

Mr. GOODE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. GOODE:

At the end of title X (page ___, after line ___), insert the following new section:

SEC. ___. ASSIGNMENT OF MEMBERS TO ASSIST BUREAU OF BORDER SECURITY AND BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

''§ 374a. Assignment of members to assist border patrol and control

''(a) ASSIGNMENT AUTHORIZED.—Upon submission of a request consistent with subsection (b), the Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to assist—

''(1) the Bureau of Border Security of the Department of Homeland Security in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

''(2) the United States Customs Service of the Department of Homeland Security in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction, components of weapons of mass destruction, prohibited narcotics or drugs, or other terrorist or drug trafficking items.

''(b) REQUEST FOR ASSIGNMENT.—The assignment of members under subsection (a) may occur only if—

''(1) the assignment is at the request of the Secretary of Homeland Security; and

''(2) the request is accompanied by a certification by the Secretary of Homeland Security that the assignment of members pursuant to the request is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

''(c) TRAINING PROGRAM REQUIRED.—The Secretary of Homeland Security and the Secretary of Defense, shall establish a training program to ensure that members receive general instruction regarding issues affecting law enforcement in the border areas in which the members may perform duties under an assignment under subsection (a). A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

''(d) CONDITIONS OF USE.—(1) Whenever a member who is assigned under subsection (a) to assist the Bureau of Border Security or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

''(2) Nothing in this section shall be construed to—

''(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

''(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

''(e) ESTABLISHMENT OF ONGOING JOINT TASK FORCES.—(1) The Secretary of Homeland Security may establish ongoing joint task forces if the Secretary of Homeland Security determines that the joint task force, and the assignment of members to the joint task force, is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

''(2) If established, the joint task force shall fully comply with the standards as set forth in this section.

''(f) NOTIFICATION REQUIREMENTS.—The Secretary of Homeland Security shall provide to the Governor of the State in which members are to be deployed pursuant to an assignment under subsection (a) and to local governments in the deployment area notification of the deployment of the members to assist the Department of Homeland Security under this section and the types of tasks to be performed by the members.

''(g) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members assigned under subsection (a).

''(h) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2005.''.

(b) COMMENCEMENT OF TRAINING PROGRAM.—The training program required by subsection (b) of section 374a of title 10, United States Code, shall be established as soon as practicable after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

''374a. Assignment of members to assist border patrol and control.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 245, the gentleman from Virginia (Mr. GOODE) and the gentleman from Texas (Mr. REYES) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Chairman, I yield myself such time as I may consume.

This amendment is called the troops on the border amendment. This amendment would authorize the use of troops on the borders of the United States if the Secretary of Defense and the Secretary of Homeland Security, after consultation, felt it was needed for our national security, if it was needed to curtail illegal immigration, if it was needed to curtail the flow of illegal drugs into our country.

We saw just a few weeks ago the tragedy that occurred when 19 illegal immigrants died from suffocation. If we had had troops on the border or this legislation if it had been passed and they were worried about troops being on our border, it would have been a message not to attempt something so dangerous. Having troops on our borders would save lives and would be an enhancement to our security and our safety.

Mr. Chairman, I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

I understand the gentleman from Virginia's concern. I understand also the need to increase enforcement along our borders to protect against terrorism and against drug trafficking.

Mr. Chairman, I spent more than 26 years in Federal law enforcement on the border between the United States and Mexico. I was on the front line of our Nation's war on drugs and against terrorism. I know how difficult it is to secure our Nation's border, and I know the need for additional resources. However, I rise in opposition to this amendment because it is simply the wrong solution to our current problems along our border. This amendment will send our military personnel to our borders at a time when they are already stretched thin in Iraq, Afghanistan, the Philippines, and over 100 countries around the world.

□ 1630

We cannot and should not ask our military personnel to patrol our borders. We need our military to be at their best. Patrolling our borders against illegal immigration has minimal military value and detracts from training with war-fighting equipment for war-fighting missions. It will lead to decreased military training which reduces unit readiness levels and overall combat effectiveness of our Armed Forces. I may not agree with the gentleman from Virginia (Mr. GOODE) today, but I know that he wants to do what is right for our country. I would therefore ask him now to join with me and find a way to place additional law enforcement personnel on the border, not military personnel.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODE. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. JONES).

PARLIAMENTARY INQUIRY

Mr. JONES of North Carolina. Mr. Chairman, may I make a parliamentary inquiry first?

The CHAIRMAN pro tempore (Mr. BEREUTER). The gentleman is recognized for a parliamentary inquiry.

Mr. JONES of North Carolina. Mr. Chairman, if I need 2 minutes, can I yield back 1 minute? I do not want to take away from the total time. I just need 2 minutes.

The CHAIRMAN pro tempore. Yes. The gentleman may yield back 1 minute or whatever time remains.

Mr. JONES of North Carolina. Mr. Chairman, I rise in strong support of this amendment from the gentleman from Virginia, troops on the border. This amendment addresses a national security issue, and it also addresses an economic issue. To my good friends, and they are my good friends, on the other side, the American people want those who want to come to this country by the legal process to come, and they are welcome; but we must remember this country is at war. That war started on September 11 of 2001, and last year we had about 1 million people come to this country illegally, and I agree with the gentleman from Virginia (Mr. GOODE).

And maybe the gentleman from Texas's idea is good that we could find a middle ground on this issue, but I will say this, that the people that I have a chance to talk to and to represent are saying to me this Congress and this government, this administration need to do a better job of protecting our borders; and it does not

matter if the borders are America and Canada or America and Mexico. We are talking about this Nation being at war, and we have to do a better job. And I think this amendment that has been proposed is an answer to a real problem; and if this is one way to force an answer, then this amendment is good.

I will say in closing that I have read numerous polls in the last 3 years on this issue, and the American people have said, and said in loud numbers, meaning 80 percent, 85 percent, that we want to see the borders of this great Nation secured. So I compliment the gentleman from Virginia (Mr. GOODE), and I am going to support this amendment, and I am going to encourage my friends to support this amendment because the American people want our borders to be secure.

Mr. Chairman, I yield back the balance of my time. And, again, God bless America.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Missouri (Mr. SKELTON), ranking member on the Committee on Armed Services.

Mr. SKELTON. Mr. Chairman, I take this opportunity to speak against this amendment. I thank the gentleman from Texas (Mr. REYES) for his commitment to our national defense and for his position of strengthening our law enforcement community. He comes from a great background and understands this issue better than anyone in this body.

Among all the reasons the gentleman from Texas (Mr. REYES) gives to oppose this amendment, the one I feel strongly about is the overstretching of our troops. I am convinced that we are stretching the young men and young women far past their capacity; and to put them on the border where we have border patrols who are doing an excellent job there I think is just gilding the lily and pushing it too far. We have American troops all over the world; and I see that some of them, frankly, are getting worn out. National Guard and Reserves are called up and this would only exacerbate a very difficult situation. The Northern Command exists to support the request from civil authorities, but our troops should not substitute for our police. And I thank the gentleman from Texas for yielding me this time.

Mr. GOODE. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Chairman, I rise in support of the gentleman from Virginia's amendment. As we stand here today, we are under this enhanced threat level of attack from terrorists, and it seems to me that this amendment and the provisions of this amendment are absolutely essential to give our Department of Defense and our Commander in Chief the option of using our military forces to secure our border if it becomes necessary. And while the Department of Defense may help other Federal agencies, this amendment simply reinforces the primary role of the armed services to protect the homeland.

The newest combat command, Northern Command, is involved in this very issue. The statutory language supporting North Com's efforts to reinforce the Department of Homeland Security and to set training and policy ground rules is extremely helpful. The authority is only in effect for 1 year and is essentially a pilot program. In other words, let us put this in place and see how it works. If it causes problems, we will know, and we will not renew it. But I do not see problems occurring, and I think it is a test that we ought to run.

The use of this authority will allow North Com to better integrate active forces and National Guard forces into homeland defense plans, a commonsense approach and one that I commend the gentleman from Virginia for bringing forward.

Mr. REYES. Mr. Chairman, can I inquire how much time we have remaining.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. REYES) has 7 minutes remaining, and the gentleman from Virginia (Mr. GOODE) has 6 minutes remaining.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ORTIZ), who, like me, is an individual who enforced the laws along the border.

(Mr. ORTIZ asked and was given permission to revise and extend his remarks.)

Mr. ORTIZ. Mr. Chairman, this is an amendment that we have dealt with on a yearly basis, and on a yearly basis the Department of Defense tells us that they do not support this amendment. We have to be realistic. I was in law enforcement like my friend here. When one is in law enforcement, one is trained to do a certain mission, a certain skill. The military people who serve in the military, I think there was a group of very senior members who went to Iraq and some of the complaints of our troops there were we were not supposed to be police officers, we were trained to kill. And that is what they do.

So by putting troops on the border, this is not going to alleviate matters any. We need to put people who are trained to do a certain job, a certain skill to deal with people, and this is why we have the border patrol. If my colleagues feel by adding more border patrol officers on the border this is going to help, why not give them the money to do that? They are trained exactly. We have a training center where we pay millions of dollars to operate to train them adequately. Why do we not do that? We have 120-or-some thousand more troops stationed around the world. Can my colleagues imagine what this is going to do to our readiness by giving them a different mission to train on a different skill? This is absurd.

I think that we need to do something, but putting troops on the border is not going to answer the problem that we have. I think that we should focus and put our energy on people that are trained to do the job, and I urge my friends to defeat this amendment.

Mr. GOODE. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I thank the gentleman for yielding me this time.

Every nation on the face of the Earth uses their military for the purpose of defense and uses their military on their borders for that very purpose. We are unique in that we have chosen over the years to avoid that use of the military, but the time has come for us to rethink this. The time has come for us to use our military in a way that every other country uses their military, to protect and defend their own borders. It is true, I have heard so often from Members of the other side, that we have our military spread all over the world. Undeniably true. And intriguingly and almost ironically in many of the places where we have our military stationed, they are stationed for the purposes of defending borders. We are defending borders in Korea. We are defending borders in Kosovo. We are defending borders in Afghanistan with our troops. Yet we refuse to use our troops to defend our borders. Is that not peculiar, to say the least? Is it not ironic at least?

The issue of the training, let me relate a story that happened to me. I had the opportunity to visit the northern border about a year and a half ago, not too far from Bonner's Ferry, Idaho. There was an exercise at the time underway. One hundred Marines were on the border working in conjunction with the border patrol and the Forest Service. This was a 2-week exercise, just to see what we could do, what actually we could do to help improve border security by using the military. It was a fascinating experiment, and I hope the gentlemen who have raised the issue of training so often would pay close attention here because it was an experience that I think they should all observe.

One hundred Marines on the border trying to control in this case about 100 miles of border. And they brought with them three UAVs, unmanned aerial vehicles, and two radar facilities. And in the use of these radar facilities and the UAVs, they were able to actually stop, while I was there, four people who were attempting to come across on all-terrain vehicles carrying 400 pounds of drugs; and a light plane was intercepted using those two radar stations. The interesting thing is that when I was talking to the commander of the Marine detachment who was there subsequent to this experience, he said, This was the best training we have ever had. This was the best training we have

ever had. He said we were operating in a realtime environment. There were real bad guys we were trying to stop coming across this border, and this is the roughest terrain we have ever operated in.

So when we are talking about the use of the military, when we are talking about training exercises and how if we were actually to employ the military on the border that this would somehow or other detract from their own training activities, I would say it is just the opposite. Talk to the Marines. Ask them about whether or not this was not what I have just described, the ''best training activity'' they have ever had.

I completely support those folks who have indicated a desire to put more resources into the border patrol. Absolutely, no problem at all as far as I am concerned. I would vote for it in a heartbeat. I would encourage all of my colleagues to do exactly the same thing. The reality is this, that even if tomorrow we doubled or tripled the amount of people and resources that we would devote to the border patrol, just the process of getting them trained online and ready to work would be so long and so cumbersome that frankly it seems to me that this alternative, the use of the military when necessary to augment, no one is suggesting and certainly my friend from Virginia is not suggesting that this be the place for the military forever, but they could augment the services of the border patrol. They could provide the technical capabilities, the unmanned vehicles, the radar stations and all the rest, as I say, that the military can bring with them and be benefited by in the process.

It seems like a very symbiotic relationship that we can actually use the military and the border patrol in conjunction with each other to accomplish the goal of a safe, secure border, a border that would in fact in reality, a secure border, have helped prevent the kind of horrible events that we have been witnessing recently.

The CHAIRMAN pro tempore. The Chair would advise that the gentleman from Texas (Mr. REYES) has 5 minutes remaining. The gentleman from Virginia (Mr. GOODE) has 1½ minutes remaining, and the gentleman from Texas (Mr. REYES) has the right to close.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I rise in opposition to the amendment. The Goode amendment is bad, and I will tell the Members that evaluation comes from those folks who represent the Texas and the California border. I represent all of the California-Mexico border. One of my crossings is the busiest border crossing in the entire world. In the various border crossings in my district, a quarter of a million people per day cross the border legally.

□ 1645

So I think I have some experience with border crossings. And, yes, we have to get better control of our border, and we have reorganized our government and established a Department of Homeland Security to do just that, and we hope they will get the proper resources to do that.

Yes, we have a lot to do, but it is not arming the border that is the answer. As has been pointed out, we have the best military in the world. We just proved it in Iraq. They are trained to kill.

I will tell Members, the people who live in my district, 55 percent of whom are Americans of Mexican descent, do not like this idea. They are worried about the idea.

I would say to the gentleman from Colorado (Mr. TANCREDO), the kind of training mission that the gentleman mentioned actually killed an American citizen of Mexican descent, an 18-year-old, ironically, who wanted to be a Marine. It was an accident. He could not tell the illegal from the legal. That is what we want to make sure does not happen on the border with Mexico.

I want to remind my friends, Mexico is a friendly nation. I do not think they have made any attempts at invasion since the Alamo. So this proposal would make a very fragile relationship right now even worse, and that is not what we ought to be doing.

If you want to help us control the border, all you folks from North Carolina and Virginia and Colorado and New Jersey, give us some technology. Ninety-five percent of the people who cross every day in my district cross frequently. With technology we can give them smart cards, they can cross the border, and we can focus our attention on the illegal crossings. This is the wrong way to go.

Mr. REYES. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Chairman, this amendment is a bad idea, and I will tell you why. We are proud of our military. They are over in 100 countries throughout the world, from Iraq to Afghanistan to Philippines to South Korea, and they are overextended. We cannot afford to send our military personnel to the border.

The ones who are responsible for that is the new Department of Homeland Security. The idea of military presence on the border is not a new idea. We have had that, and it has been devastating.

In 1997, a Marine anti-drug patrol shot to death a young man, Esquiel Hernandez. You tell Mrs. Hernandez if that was the right thing to do, to have Marines down there, when this young man was in high school, taking care of his goats on the border. He was shot by a Marine. The child was an American citizen.

In addition to that, our number one and number two trading partners are Canada and Mexico. If you are a terrorist, one of the things you want to do, you want to distract and make sure the economy goes into disruption.

This is not the way to do it. We need to make sure that we continue to work with our friends, both in Mexico and Canada, and this is the wrong way and the wrong approach to take.

Now is the crucial time for us to work with Mexico and Canada. These two countries are our partners. We have to be secure and make sure that Canada is secure and that Mexico is secure in order for us to be secure. And we have got to continue to make that effort. We live in a culture where we interact on the border, and I live on the border. I am not in Colorado with the gentleman from Colorado (Mr. TANCREDO).

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, that was a tragedy about the shooting of the 18-year-old young man, Mr. Hernandez, who was shepherding his family's goats. But let me tell you a little bit more about the story. He had a .22 rifle. He fired twice at the Marines and was aiming to fire a third time, and only then was fire returned and, regrettably, he was killed with a single shot.

We need to pass this amendment today. We need to send a message to the illegal drug traffickers, hey, we are going to have the authority to put troops on the border. We need to send a message to illegal aliens coming into this country that we are going to put troops on the its border and stop it. And to those terrorists who are in Mexico, such as that reported by the Washington Times that al Qaeda is there, we need to send them a message: We are going to stop you at the border; you are not getting in.

Let us put troops on the border and vote yes for this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing, let me clear the record. When the gentleman from Virginia (Mr. GOODE) talks about the young man that fired off at the Marines, he did not know what he was firing at. They were operating in a covert and camouflaged situation, and he did not know what they were. So he did fire a shot at them. But the important thing there is one life lost in an ill-conceived policy is one life too many.

When they talk about the authority that the President needs to be able to do that, he has that authority already in several different parts of our law. When he talks about the value of training for our military, I would remind my colleagues, the military in Baghdad pleaded with us and said, look, we trained for combat. We have won this war. Get us out of here. We are not cops, we are not infrastructure protectors, we are not policemen. Get us out of here. We trained for combat. That is their role.

Secondly, you do not want to subject border communities to marshal law.

You talk about sending a message? The message that you are sending is this, that we are thinking of our military as expendable. We are willing to send them to the border, where they may become legally liable should they shoot another Esquiel on the border. They are legally liable.

Secondly, they are trained for combat. You cannot expect our military to change hats, one for combat and one for civil law enforcement.

We deserve better. We can do better. Let us give the resources to Federal agencies that are responsible for this kind of duty and not subject our military and abuse our military.

Mr. BACA. Mr. Chairman, I rise in strong opposition to the Goode amendment.

The United States is battling the forces of international terrorism. This amendment hurts this battle by reallocating resources that already exist in our border patrols.

The Department of Defense opposes this bill. Why? Because it is not intended to secure our border, it is intended to affect immigration and to intimidate the millions of Mexican-Americans and Latinos that live in our Nation's border region.

Let us remember little Ezequiel Hernandez who was shot dead by Marine snipers while he was herding his goats.

I am deeply concerned that by placing combat ready troops at our borders, our borders will become a war zone. Our Nation will be perceived, and rightly so, to be engaging in a war against Latino immigrants. This is nothing new.

We must take urgent measures to protect our Nation, but we cannot do so at the expense of our values, traditions, and freedoms. We cannot do so at the expense of ending what little goodwill exists with our border neighbors.

Our challenge is to keep out terrorists who want to destroy this country while welcoming the newcomers who want to help build it. Putting troops on the border will not make our borders safer. Putting troops on the border only guarantees more accidental deaths of Latinos like little Ezequiel. This child deserved to grow up, graduate from school, marry, have children, and live a long fruitful life. He definitely did not deserve to be shot dead.

It is certain that others like little Ezequiel will die if we pass this thin-veiled anti-immigrant amendment.

Military personnel are not trained for border patrolling they are trained for war and combat. They are not trained to be sensitive to civil liberties. They are trained to fight terrorists and we need to let them do their job—abroad. The U.S. military does not police civilian populations lest we forget the lessons of history from the Soviet Union and its satellite nations.

If we really want to secure our borders, we should increase funding for local law enforcement. We should not divert funds and shift the focus away from the war on terror. Our enemies are terrorists, not immigrants.

The CHAIRMAN pro tempore (Mr. BEREUTER). All time for debate has expired.

The question is on the amendment offered by the gentleman from Virginia (Mr. GOODE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. GOODE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. GOODE) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 1 offered by Mr. HUNTER; and

Amendment No. 2 offered by Mr. GOODE.

The Chair will reduce to 5 minutes the time for the second electronic vote.

AMENDMENT NO. 1 OFFERED BY MR. HUNTER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. HUNTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 175, not voting 7, as follows:

[Roll No. 205]

AYES—252

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Sullivan
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—175

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky

Walden (OR) Waxman Wu
Waters Weiner Wynn
Watson Wexler
Watt Woolsey

NOT VOTING—7

Abercrombie Hinojosa Sweeney
Burr LaTourette
Gephardt Lewis (GA)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mrs. BIGGERT) (during the vote). Members are reminded that there are less than 2 minutes remaining in this vote.

□ 1714

Mr. OWENS and Mr. WALDEN of Oregon changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the next vote will be conducted as a 5-minute vote.

AMENDMENT NO. 2 OFFERED BY MR. GOODE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 250, noes 179, not voting 5, as follows:

[Roll No. 206]

AYES—250

Aderholt Burns DeMint
Akin Burr Deutsch
Alexander Burton (IN) Diaz-Balart, L.
Bachus Calvert Diaz-Balart, M.
Baker Camp Dingell
Ballenger Cannon Doolittle
Barrett (SC) Cantor Duncan
Bartlett (MD) Capito Dunn
Barton (TX) Cardoza Emerson
Bass Carson (OK) Engel
Beauprez Carter English
Biggert Case Etheridge
Bilirakis Castle Everett
Bishop (GA) Chabot Feeney
Bishop (NY) Chocola Ferguson
Bishop (UT) Coble Fletcher
Blackburn Cole Foley
Blunt Collins Forbes
Boehlert Combest Ford
Boehner Cooper Fossella
Bonilla Costello Franks (AZ)
Bonner Cox Frelinghuysen
Bono Cramer Gallegly
Boozman Crane Garrett (NJ)
Boswell Crenshaw Gerlach
Boucher Cubin Gibbons
Boyd Culberson Gilchrest
Bradley (NH) Cunningham Gillmor
Brady (TX) Davis (TN) Gingrey
Brown (SC) Davis, Jo Ann Goode
Brown-Waite, Ginny Deal (GA) Goodlatte
Burgess DeFazio Gordon
DeLay Goss
Granger Manzullo Ros-Lehtinen
Graves Marshall Ross
Green (WI) Matheson Royce
Greenwood McCotter Ryan (WI)
Gutknecht McCrery Ryun (KS)
Hall McHugh Saxton
Harris McInnis Schrock
Hayes McIntyre Scott (GA)
Hayworth McKeon Sensenbrenner
Hefley Mica Sessions
Hensarling Miller (FL) Shadegg
Herger Miller (MI) Shaw
Hobson Miller, Gary Shays
Hoekstra Moore Sherwood
Hooley (OR) Moran (KS) Shimkus
Hostettler Murphy Shuster
Hulshof Musgrave Simpson
Hunter Myrick Smith (MI)
Hyde Nethercutt Smith (NJ)
Isakson Ney Smith (TX)
Israel Northup Spratt
Issa Norwood Stearns
Istook Nunes Strickland
Janklow Nussle Sullivan
Jenkins Osborne Tancredo
John Ose Tanner
Johnson (CT) Otter Tauzin
Johnson (IL) Oxley Taylor (MS)
Johnson, Sam Pence Taylor (NC)
Jones (NC) Peterson (MN) Terry
Keller Peterson (PA) Thomas
Kelly Petri Tiahrt
Kennedy (MN) Pickering Tiberi
Kind Pitts Toomey
King (IA) Platts Turner (OH)
King (NY) Pombo Udall (CO)
Kingston Pomeroy Upton
Kirk Porter Vitter
LaHood Portman Walden (OR)
Latham Pryce (OH) Walsh
LaTourette Quinn Wamp
Leach Radanovich Weldon (FL)
Levin Ramstad Weldon (PA)
Lewis (CA) Regula Weller
Lewis (KY) Rehberg Whitfield
Linder Renzi Wicker
LoBiondo Reynolds Wilson (SC)
Lowey Rogers (AL) Wolf
Lucas (KY) Rogers (KY) Young (AK)
Lucas (OK) Rogers (MI) Young (FL)
Majette Rohrabacher

NOES—179

Abercrombie Farr Lofgren
Ackerman Fattah Lynch
Allen Filner Maloney
Andrews Flake Markey
Baca Frank (MA) Matsui
Baird Frost McCarthy (MO)
Baldwin Gonzalez McCarthy (NY)
Ballance Green (TX) McCollum
Becerra Grijalva McDermott
Bell Gutierrez McGovern
Bereuter Harman McNulty
Berkley Hart Meehan
Berman Hastings (FL) Meek (FL)
Berry Hastings (WA) Meeks (NY)
Blumenauer Hill Menendez
Brady (PA) Hinchey Michaud
Brown (OH) Hoeffel Millender-McDonald
Brown, Corrine Holden Miller (NC)
Buyer Holt Miller, George
Capps Honda Mollohan
Capuano Houghton Moran (VA)
Cardin Hoyer Murtha
Carson (IN) Inslee Nadler
Clay Jackson (IL) Napolitano
Clyburn Jackson-Lee (TX) Neal (MA)
Conyers Jefferson Oberstar
Crowley Johnson, E. B. Obey
Cummings Jones (OH) Olver
Davis (AL) Kanjorski Ortiz
Davis (CA) Kaptur Owens
Davis (FL) Kennedy (RI) Pallone
Davis (IL) Kildee Pascrell
Davis, Tom Kilpatrick Pastor
DeGette Kleczka Paul
Delahunt Kline Payne
DeLauro Knollenberg Pearce
Dicks Kolbe Pelosi
Doggett Kucinich Price (NC)
Dooley (CA) Lampson Putnam
Doyle Langevin Rahall
Dreier Lantos Rangel
Edwards Larsen (WA) Reyes
Ehlers Larson (CT) Rodriguez
Emanuel Lee Roybal-Allard
Eshoo Lipinski Ruppersberger
Evans Rush Slaughter Udall (NM)
Ryan (OH) Smith (WA) Van Hollen
Sabo Snyder Velazquez
Sanchez, Linda T. Solis Visclosky
Souder Waters
Sanchez, Loretta Stark Watson
Sanders Stenholm Watt
Sandlin Stupak Waxman
Schakowsky Tauscher Weiner
Schiff Thompson (CA) Wexler
Scott (VA) Thompson (MS) Wilson (NM)
Serrano Thornberry Woolsey
Sherman Tierney Wu
Simmons Towns Wynn
Skelton Turner (TX)

NOT VOTING—5

Gephardt Lewis (GA) Sweeney
Hinojosa Rothman

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mrs. BIGGERT) (during the vote). Members are advised that there are less than 2 minutes left to record their vote.

□ 1723

So the amendment was agreed to.

The result of the vote was announced as above recorded.

(Mr. SHIMKUS asked and was given permission to speak out of order for 1 minute.)

INFORMING MEMBERS OF PAGE RECEPTION

Mr. SHIMKUS. Madam Chairman, I want to remind all Members that the page reception is occurring as we speak down in the Members' dining room. If you have a page here in this class, if you would get down to the Members' dining room and make sure you say hi to them. If you are a Member that has developed a good relationship with pages and want to make sure you say farewell, that is going on now as we speak.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 3 printed in House Report 108–120.

AMENDMENT NO. 3 OFFERED BY MS. LORETTA SANCHEZ OF CALIFORNIA

Ms. LORETTA SANCHEZ of California. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. LORETTA SANCHEZ of California:

At the end of title VII (page 196, after line 12), add the following new section:

SEC. 708. LIMITING RESTRICTION OF USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES TO PERFORM ABORTIONS TO FACILITIES IN THE UNITED STATES.

Section 1093(b) of title 10, United States Code, is amended by inserting ''in the United States'' after ''Defense''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 245, the gentlewoman from California (Ms. LORETTA SANCHEZ) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield myself such time as I may consume.

Today I offer an amendment about freedom, safety and choice. Members of

the Armed Services are entitled to a quality of life equal to that of the Nation they are pledged to defend. Whether you are pro-life or pro-choice, agree or disagree with the merits of reproductive freedom, the facts remain, the women of the United States have a constitutional right to reproductive services. So why would we choose to place an overseas female soldier or military dependent into a subclass of citizenship?

Currently, servicewomen may fly back to the United States to obtain reproductive services but only after they have authorization from commanding officers and can find a space on a military transport. If your daughter, wife, sister or friend had to make a tough reproductive choice and were stationed overseas, do you believe that as adult women they should be required to disclose this information to their commanding officer? Would you want to put her on the plane alone? Our servicewomen and dependents deserve better.

My amendment allows military personnel and their dependents serving overseas to use their private funds to obtain safe, legal abortion services in overseas military hospitals. No Federal funds would be used. This amendment will only affect United States military facilities overseas, and my amendment will not violate host country laws. It does not compel any doctor who opposes abortion on principle to perform one. It will, however, open up reproductive services at bases in countries where abortion is legal.

Vote for the rights of our servicewomen and dependents abroad. Vote for the Sanchez amendment.

Madam Chairman, I reserve the balance of my time.

Mr. RYUN of Kansas. Madam Chairman, I claim time in opposition to the Sanchez amendment.

The CHAIRMAN pro tempore. The gentleman from Kansas (Mr. RYUN) is recognized for 15 minutes.

Mr. RYUN of Kansas. Madam Chairman, I yield myself such time as I may consume.

Under this amendment, abortions could be performed in military medical facilities outside of the United States for any reason. Self-funded abortions would no longer be limited to cases in which the life of the mother is in danger or in cases of rape or incest.

□ 1730

The gentlewoman from California (Ms. LORETTA SANCHEZ) stated the reason for offering this amendment is that female servicemembers and dependents overseas are denied equal access to health care, effectively putting their lives and health in harm's way, and that simply is wrong. In overseas countries where safe and legal abortions are not available, servicemembers and their dependents have the option of using space-available travel for returning to the United States or traveling to another overseas country for the purpose of obtaining an abortion.

Additionally, DOD doctors are still required to obey the abortion laws of the countries where they are providing services. Thus, if this amendment became law, they still could not perform abortions in these locations where abortion is restricted or is not permitted. In such cases, pregnant women would be able, as they are now, to travel to a nearby country or back to the United States on a military flight or on a space-available basis.

Ask any military doctor if they joined up to perform abortions, and they will simply say they entered to save lives. Congress should not take a step towards putting these doctors in a position of taking the most innocent of human life. There is no demonstrated need to increase the number of abortion procedures at military installations. This amendment does not seek to address an operational requirement or ensure access to an entitlement. It is simply aimed at introducing this very contentious and divisive issue in the defense authorization fight, and I encourage my colleagues to oppose this amendment.

Madam Chairman, I reserve the balance of my time.

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN) and the original sponsor of this bill way back when.

Ms. HARMAN. Madam Chairman, I thank my colleague for yielding me this time, and I commend her for her leadership on this very important issue.

Madam Chairman, as communities across the Nation begin to welcome home members of our Armed Forces who served in Afghanistan and Iraq, and to honor those who continue to serve in our ongoing war on terrorism, we are, at the same time, turning America's brave servicewomen into second-class citizens. So long as this Congress continues a policy that fails to afford servicewomen their constitutional right to comprehensive health care, regardless of where they serve, we continue to do them serious harm.

Since 1989, and except for 2 years early in the Clinton administration, Congress has barred a woman's access to necessary health care services at overseas bases, even when paid for by their own funds. When I served on the Committee on Armed Services, way back when, I sponsored this same amendment to restore the rights of servicewomen serving overseas. And before me, our colleague, the gentlewoman from Connecticut (Ms. DELAURO), courageously fought this battle.

I have long believed that the current policy is unconstitutional and, if challenged, would be overturned as a violation of Roe v. Wade. In practical terms, the policy exposes our servicewomen serving in austere locations overseas to unsanitary and unsafe medical facilities, and it requires that a woman violate her right to privacy by requiring that she secure permission from a superior officer to travel back to the United States to terminate an unwanted pregnancy, a requirement that violates her rights under Roe v. Wade.

Today, this body has another opportunity to right this obvious wrong. As the sponsor pointed out, we do not ask that the Federal Government pay for abortions overseas. Women who want this procedure will have to pay for it. Nor do we compel medical professionals to provide the procedure. There is a conscience clause. As servicewomen and female dependents deploy abroad, it is time to send the right message. As they protect our constitutional rights to life and liberty, we need to protect theirs.

Vote for the Sanchez-Harman-DeLauro amendment.

Mr. RYUN of Kansas. Madam Chairman, I am pleased to yield 1 minute to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Madam Chairman, I rise in opposition to this amendment. We have had issues that come up which I call perennials. Year after year they come up and, fortunately, in my opinion, this one keeps failing every year. I am glad that the House rejected this amendment in 2002, 2001, 2000, 1999, 1998, 1997, and 1996.

Whenever this amendment is brought up, the word ''choice'' is always brought into the conversation. I would urge my colleagues to respect the choices of the American taxpayers. The men and women that get up and go to work every day and pay their taxes in this country have spoken very clearly that they do not want their tax dollars used to provide abortions.

Military treatment centers, the very centers that are funded by these American taxpayers who get up and go to work every day and pay their taxes, should be used and dedicated for the healing and nurturing of human life, not taking the life of the most vulnerable of all human beings, the unborn child.

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER), one of my colleagues on the Committee on Armed Services.

Mrs. TAUSCHER. Madam Chairman, I thank my colleague for yielding me this time, and I rise to express my support for the Sanchez amendment.

This amendment would provide equal access to women in the military who are serving overseas. Currently, women who have volunteered to serve our country and female military dependents are denied their legally guaranteed right to choose simply because they are stationed overseas. All military women, including those deployed overseas, should be able to depend on their base hospitals for all of their health care needs.

A repeal of the current ban on personally funded abortions would allow women access to the same range and

quality of reproductive health care available in the United States. Most importantly, the Sanchez amendment would allow our servicewomen privacy in making this important personal decision. Under current law, military women must either go off base or must ask their commander for time off to travel back to the United States.

Madam Chairman, I hope we can support this amendment and ensure that American women stationed overseas are afforded the same basic rights as women at home. I urge my colleagues to support this critical amendment.

Mr. RYUN of Kansas. Madam Chairman, I am pleased to yield such time as he may consume to the gentleman from Georgia (Mr. GINGREY).

(Mr. GINGREY asked and was given permission to revise and extend his remarks.)

Mr. GINGREY. Madam Chairman, I thank the gentleman for yielding me this time, and I rise today in strong opposition to the Sanchez amendment.

Current law prevents military facilities located overseas from performing abortions. This amendment would reverse this ban and allow facilities tasked with saving and preserving the lives of our military personnel to literally becoming abortion clinics.

Madam Chairman, I am sure that most of my colleagues are aware that the House has rejected this exact same amendment during committee and floor consideration of the defense authorization bill in each of the last 7 years. This body has acted wisely on this misguided amendment and for good reason.

I oppose this amendment not only as a member of the House Committee on Armed Services that is strongly committed to our national defense, but also as an OB-GYN physician of almost 30 years. In my career practicing medicine, I have delivered over 5,000 babies, and I remain steadfastly committed to pro-life principles.

Again, the primary mission of the military treatment center is to heal and protect human life, but this amendment seeks to overturn this mission and convert these facilities into providers of abortion instead.

Madam Chairman, I urge my colleagues to protect the sanctity of human life and oppose this Sanchez amendment.

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield 1 minute to the gentlewoman from California (Mrs. DAVIS), another member of the Committee on Armed Services.

Mrs. DAVIS of California. Madam Chairman, I rise in support of the Sanchez amendment.

As a mother and military spouse who lived overseas during the Vietnam War, my heart breaks when I read about the experiences of American military women who are left on their own to seek reproductive health services in a foreign country. As a member of the Committee on Armed Services, I am moved to change the law and offer these servicewomen safe medical care for services they are even willing to pay for.

One woman wrote to me the following after being turned away at her base: ''The military expects nothing less than the best from its soldiers, and I expect the best medical care in return. If this is how I will continue to be treated as a military servicemember by my country and its leaders, however, I want no part of it.''

I urge my colleagues to join me in supporting the Sanchez amendment.

Mr. RYUN of Kansas. Madam Chairman, I am pleased to yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Madam Chairman, I thank the gentleman for yielding me this time. This is now the ninth time I have risen to speak against this amendment.

I practiced medicine in the Army for 6 years before I was elected to the House of Representatives, and I was in the Army when President Reagan initially made his executive order stating that we would no longer do abortions in military hospitals. We in the medical care community in the military were very pleased with this.

I have talked to a lot of nurses and a lot of doctors about this issue, and many of them are pro-life and they say they were very glad it was removed, but many of them are actually pro-choice but they all say the same thing to me. They say they are pro-choice, but I would never do an abortion. They say they are pro-choice, but I would never assist in an abortion. And they were all very, very happy to get this out of the military medical facilities.

This would be a step in the wrong direction. It would be bad for morale. And I wholeheartedly concur with the comments of my physician colleague, the gentleman from Georgia (Mr. GINGREY).

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Madam Chairman, I rise today in strong support of the Sanchez amendment. Over the last few months, we have voiced our support for the troops many, many times. Tax relief, loan forgiveness, and resolutions of support are well and good. But I know of no better way to demonstrate our real support for our troops than by finally giving women in our Armed Forces and the wives and daughters of the men in our military the ability to exercise their constitutional right to reproductive choice and reproductive health while being stationed abroad.

We routinely ask servicewomen to put their lives on the line in defense of our country and our country's ideals. That is why we must not require them to put their lives on the line when seeking constitutionally protected reproductive services. Please join me in supporting our troops by supporting the Sanchez amendment.

Mr. RYUN of Kansas. Madam Chairman, may I inquire how much time I have remaining.

The CHAIRMAN pro tempore (Mrs. BIGGERT). The gentleman from Kansas (Mr. RYUN) has 10 minutes remaining, and the gentlewoman from California (Ms. LORETTA SANCHEZ) has 8 minutes remaining.

Mr. RYUN of Kansas. Madam Chairman, I am pleased to yield 1 minute to the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Madam Chairman, I rise in opposition to this amendment.

Over the last 30 years, abortion on demand has left 42 million separate scars on the soul of America. Madam Chairman, every time one took place, a mother's heart was never quite the same, a nameless little baby died a tragic and lonely death, and all of the gifts that child might have brought to this world were lost forever.

Madam Chairman, there are many lying out in the field of Arlington today that died for a basic principle, and that is the basic principle that we are here for today, which is to compile amendments and laws that will protect the innocent from those that would desecrate their rights and their lives.

Madam Chairman, if we turn military clinics and hospitals into abortion clinics, we dishonor their memory; and we say to the world that we do not have the insight to find better ways to help mothers than killing their children for them.

Madam Chairman, I hope we will defeat this amendment.

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield 1 minute to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Chairman, the gentleman from Kansas said not to worry, our servicewomen can exercise their full right of reproductive services that are legal here at home, because all they have to do is either get space available on an airplane or go to another country in the region where abortion is legal.

□ 1745

Well, what do you say to the courageous servicewomen in Iraq who might be pregnant who might not have known they were pregnant when they left? Space available, that is not enough for them. If we are forcing them into a second trimester abortion, the health risks are much higher.

So where are they going to go? Saudi Arabia? Iran? This is disrespectful to our fighting women all around the world.

The problem is even greater now when we have servicewomen in large numbers deployed all around the world in regions where abortion is not safe and legal. So I challenge my colleagues who even consider voting against this amendment to look into the eyes of these servicewomen and say to them that they can fight for me, they can die

for me, but they cannot make their own reproductive health choices.

Mr. RYUN of Kansas. Madam Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Madam Chairman, I rise in opposition to the Sanchez amendment which would force military medical facilities to provide abortions. In recent months, we have witnessed the courage and bravery of our men and women of our Armed Forces, and they have risked their lives in the war on terror and the war in Iraq. They have risked their lives in order to preserve and extend the right to life and liberty at home and abroad.

U.S. military personnel aboard the USS Comfort and in other U.S. military medical facilities have extended hope and healing to the wounded. How do we repay them? How do we thank them for their sacrifice and selflessness? The Sanchez amendment would repay them by forcing military medical personnel to be complicit in the taking of human life. It would divert precious medical resources such as staff time, equipment and facilities away from the front lines of battle. The Sanchez amendment would promote bad medicine and the poor use of scarce taxpayer dollars.

Abortion is the most violent form of death known to mankind, death by decapitation, dismemberment, a horrible, horrific death. We should defeat the Sanchez amendment.

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would remind Members there is a clause that doctors do not have to perform these services if they are opposed to them. We are not making medical personnel do something that they are opposed to or do not believe in.

Madam Chairman, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Madam Chairman, I thank the gentlewoman for her amendment and support it. American uniformed women stationed overseas depend on base hospitals for their medical care, often situated in areas where local facilities are inadequate. We have over 100,000 American women in uniform now on active duty with spouses and dependents who depend on those base hospitals.

Just 3 years ago, I served as a Navy air crewman at the Insurlik Air Base in Adona, Turkey. The thought of sending one of my female colleagues to the Turkish hospital in downtown Adona for her medical care rather than in the American base hospital where they would understand her own language is an anathema to me.

Women who serve in our Armed Forces and wear the uniform should have the same rights as women in our country, and that is a basic principle we stand for. I urge adoption of the amendment.

Mr. RYUN of Kansas. Madam Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Madam Chairman, I rise in opposition to this amendment. Our military's primary responsibility is to defend American lives in every capacity. Therefore, military hospitals should not be turned into abortion clinics. This amendment would corrupt the mission of our military by using military hospitals, built also by pro-life American taxpayers, for the purposes of performing abortions.

Many military doctors and nurses have already made it clear they will refuse to perform abortions. Therefore, those doctors who exercise their conscience clause would force the military to go look for, search, hire, and transport civilian abortionists onto military bases and hospitals overseas. In the past, our military has not given its war fighters enough pay raises, and now we are forced to debate whether or not to use defense dollars to search for civilian abortionists in foreign countries.

This amendment is a misguided attempt to insert the pro-abortion agenda into a piece of legislation that is instrumental to the defense of our Nation. Reject this amendment to alter the purpose and obligations and traditions of our military hospitals. Reject this amendment and allow military doctors to save lives on the battlefield, rather than abort them in military hospitals.

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield myself such time as I may consume.

I would like to remind my colleagues that no public funds are used under this amendment. The individual who wishes to have an abortion would have to pay from her own funds.

Madam Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Madam Chairman, I strongly urge a ''yes'' vote for the Sanchez amendment which will protect women's health and rights overseas.

War has just ended in Iraq and Afghanistan, yet we still have many servicewomen overseas who are risking their lives to protect our lives and our rights as U.S. citizens. One of those rights is a woman's right to choose, but women serving effectively lose this constitutional right at U.S. military bases where they literally cannot even pay for this medical procedure with their own money.

A male member of the Armed Services needing medical attention receives the best, but a female member needing a specific medical procedure must return to the United States, often at great expense, or go to a foreign hospital which may be unsanitary and dangerous. This is absolutely wrong. After over 200 anti-choice votes, this is yet another one.

Madam Chairman, I place in the RECORD a list of distinguished organizations that have come out in support of protecting women's rights overseas.

College of Obstetricians and Gynecologists; The American Association of University Women; National Women's Law Center; American Medical Women's Association; Physicians for Reproductive Choice and Health; The Bipartisan Pro-Choice Caucus; Planned Parenthood; and NARAL.

Mr. RYUN of Kansas. Madam Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Chairman, I thank the gentleman for his outstanding leadership on this issue.

Madam Chairman, nine out of ten hospitals in the United States adamantly refuse to abort unborn children, and the trend is for hospitals to divest themselves of abortion.

It is outrageous that, as hospitals in our country repudiate abortion, the Sanchez amendment seeks to turn our overseas military hospitals into abortion mills. With all due respect to the gentlewoman from California (Ms. LORETTA SANCHEZ), the amendment she offers will result in babies being brutally killed by abortion and will force pro-life Americans to facilitate and to subsidize the slaughter of innocent children.

We do not want any part of that carnage, and when President Clinton in the previous administration sought to impose this kind of activity upon our military not a single military doctor in our overseas hospitals wanted to be a part of it. They had to look outside the system because they were pro-life, and they wanted to nurture and care for, provide maternal health care, prenatal health care, not the killing of those babies.

Madam Chairman, let us be clear. Abortion is violence against children. Some abortion methods dismember and rip apart the fragile bodies of children. Other methods chemically poison children. Abortionists turn children's bodies into burned corpses, a direct result of the caustic effect of salt poisoning and other methods of chemical abortions.

I would say to my colleagues, there is absolutely nothing benign or curing or nurturing about abortion. It is violence. It is gruesome. And yet the apologists sanitize the awful deed with soothing, misleading rhetoric. Abortion methods are particularly ugly because, under the guise of choice, they turn baby girls and baby boys into dead baby girls and dead baby boys.

We have had enough loss of innocent life. Reject the Sanchez amendment.

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Madam Chairman, I rise today in strong support of the Sanchez amendment and want to commend and thank the gentlewoman for her tireless fight for the rights of all women, including women serving in our military.

It is absurd that we must come to the floor annually to fight to repeal this unfair and discriminatory policy of denying servicewomen and female military dependents from using their own money for abortions at overseas military hospitals. At a time when many servicewomen are overseas serving in Iraq, Afghanistan, and elsewhere, this policy is extremely cruel.

We support our troops, yet we deny women serving in our Armed Forces access to vital reproductive health services. How patriotic is this? Military women should be able to depend on their base hospitals for all of their health care services. A repeal of the current law ban on privately funded abortions would allow women access to the same range and quality of medical care available in our own country. That is why I strongly urge my colleagues to support the Sanchez amendment.

Mr. RYUN of Kansas. Madam Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Madam Chairman, I thank the gentleman for yielding me this time.

I oppose the Sanchez amendment. This is one of the nights in my life that I regret that I am not a woman. I am just another white, middle-aged Republican rising to speak on the issue of abortion. But I know I speak tonight for millions of American women who cherish the right to life, who believe that abortion, as I do, is morally wrong and choose not to see their taxpayer dollars, directly or indirectly, subsidize or promote abortion at home or abroad.

It truly is what we are about tonight. For while I oppose abortion, and we have heard passionate eloquence on the pro-life message, I oppose the Sanchez amendment because it is morally wrong to force millions of American men and women who oppose abortion at home to finance it abroad. Now the amendment of the gentlewoman from California (Ms. LORETTA SANCHEZ) seems to acknowledge this sensitivity and the fact that surveys show the overwhelming majority of Americans, even if they support the right to an abortion, do not believe that taxpayer money should be used to fund it.

In fact, the gentlewoman from California (Ms. LORETTA SANCHEZ) just said, in correcting my colleague from Arizona, that no public funds will be used specifically for abortion, but what is obvious to anyone who would understand this process is that while perhaps the act is not funded by the taxpayer, the hospital is, the search for a physician is, the infrastructure where the act would be conducted is. Therefore, taxpayer dollars will indirectly fund abortion at military bases overseas. This is in violation of a basic principle that you do not force millions of Americans who find the procedure of abortion morally wrong to pay for it with their tax dollars in a coercive manner.

If it is wrong to fund abortions directly with taxpayer dollars, it is wrong to do it indirectly as well. So I rise in opposition to the Sanchez amendment because we ought not to do indirectly what we would not be willing to do on this floor directly. America should continue, our military bases should continue, in the disposition of American taxpayer resources to choose life.

□ 1800

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield myself such time as I may consume.

It is quite obvious to me that my colleague who just spoke has not recently received any type of a bill from a hospital, because if he would see that, he would understand that even right down to the last vitamin or pill that is administered in a hospital, you are charged when you are there. So the cost of this would be borne by the woman and her family.

Madam Chairman, I yield 1¼ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a tireless fighter with respect to women's reproductive issues.

(Mrs. JOHNSON of Connecticut asked and was given permission to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. I thank the gentlewoman for yielding me this time.

Madam Chairman, I rise in strong support of the Sanchez amendment. This is not about abortion. I know people differ as to whether they would have an abortion or anyone in their family would have an abortion. This is not about that. There is no State in our entire Nation that bans the right for women in America to choose to have a termination of a pregnancy. Not one. It is a legal medical procedure that is available to women in America if they are stationed in America. The idea that we would deny our servicewomen this right because they are stationed abroad. Have you ever walked through a Chinese hospital? I have. Do you want a wife or a daughter to have to be hospitalized to have a procedure in a hospital whose sanitary conditions are scandalous and whose people are poorly trained? That is wrong. Our servicemen and women should have access to the same legal bundle of medical procedures abroad as they have here. This is not a matter of taxpayer dollars, either. They have to pay for it. And it is costly. Your daughter gets date-raped by a young soldier. You want her in that military hospital, high quality, if she needs that pregnancy terminated. This is cruel, it is wrong, it is unequal; and it is not about abortion. I support the Sanchez amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield myself such time as I may consume. Let me just respond a little bit to some of the comments that have been made. If there is rape and incest involved, there is access to an abortion overseas. I want to clarify that for the record.

Mr. Chairman, I am happy to yield 1 minute to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Chairman, the proposal, of course, before us as we have heard is basically going to turn our overseas military medical facilities into abortion clinics. The point has been made that we allow abortions in 50 States, but it is also clear that we only allow abortions in one out of 10 hospitals. Yet with this particular amendment, we are going to force our military hospitals to perform these abortions. This was tried before in 1993 to 1996 under President Clinton's policies, and it was rather unsuccessful.

First of all, it was very hard to find obstetricians and gynecologists stationed overseas who wanted to perform the abortions in the first place. Very, very few abortions were actually conducted. Part of that is because there are laws against abortion in many foreign countries, and so even there we would not be able to do the abortion.

Now there is the idea, or the inference, that there is some necessity for these abortions in military hospitals. But the necessity does not exist. This is something that can be done as an elective procedure. It can be done by people coming to our country.

I would urge my colleagues to vote in opposition to the amendment.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Chairman, I come to the floor because men need to come to the floor and say that it is time to end the second-class treatment of the proud women who are serving in our Armed Forces. This is fundamentally a debate about freedom. Because in America, the U.S. Supreme Court has said women have the freedom to make this decision. And women are treated as second-class citizens by saying they may have that freedom when they are in the United States, but once they leave our shores to serve us, to fight for the very freedoms that we stand for in America, they lose that freedom right.

My good friend from Kansas has suggested that they are free to fly to Afghanistan for this procedure. That is a great irony. Because when a man goes in for reproductive services, he can get a vasectomy in his military hospital in Germany. That is fine. But we are asking our sisters and our wives and our daughters who serve proudly in the Army and the Navy and the Air Force to fly to Afghanistan, a place that we just went to war to try to serve women to free them from the Taliban. This is a freedom matter, and we ought to support this amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if I could clarify the record just briefly, I am not suggesting, nor is anyone else, that they have to fly to Afghanistan, but they have the opportunity to return to this country on a space-available situation. I do not want to see our military installations turned into abortion clinics. I urge a strong ''no'' in opposition to the Sanchez amendment.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I close by reminding my colleagues that this is a bipartisan issue. We have Planned Parenthood, NARAL, the College of OB-GYN physicians who support this amendment. I would like to close finally with a voice from a woman who found herself in this situation while stationed in the Army in Germany. She says:

''I chose to fly back to the States because I did not trust foreign doctors. It cost me over $800 for the trip. It would have cost me more, but I went by military hop. Plus the $300 for the abortion, not counting the fact that I had to use my vacation time. Luckily my trip was approved in time for me to get back before I reached the end of my first trimester. I can remember thinking at the time how unfair it was that I had to resort to these drastic measures. Had I been in the States, it would have not been an issue. I can remember being resentful of my fellow male comrades who were able to have vasectomies paid for by the military in Germany and yet I had to use my leave time and my own funds to fly back to the U.S. for what is also a reproductive choice. Women in the military are denied their right to control their reproductive process while abroad, although men in the military enjoy the same rights abroad as they do in the States.''

She says, ''I believe it is time that the women of this country enjoy the same rights their male counterparts enjoy, for that is what I think I was fighting for when I was stationed there.''

Support the Sanchez amendment.

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Sanchez amendment, which would allow military women and dependents stationed overseas to obtain abortion services with their own money. I want to thank my colleague LORETTA SANCHEZ for her fine work on this important issue.

Over 100,000 women live on American military bases abroad. These women risk their lives and security to protect our great and powerful nation. These women work to protect the freedoms of our country. And yet, these women—for the past eight years—have been denied the very Constitutional rights they fight to protect.

My colleagues, this restriction is un-American, undemocratic, and would be unconstitutional on U.S. soil. How can this body deny constitutional liberties to the very women who toil to preserve them? Mr. Chairman, as we work to promote and ensure democracy worldwide we have an obligation to ensure that our own citizens are free while serving abroad. Our military bases should serve as a model of democracy at work, rather than an example of freedom suppressed.

This amendment is not about taxpayer dollars funding abortions, because no Federal funds would be used for these services. This amendment is not about health care professionals performing procedures they are opposed to, because they are protected by a broad exemption. This amendment is about ensuring that all American women have the ability to exercise their Constitutional right to privacy and access safe and legal abortion services.

Mr. Chairman, as our Nation works to preserve our freedoms and democracy, now is not the time to put barriers in the path of our troops overseas. We know that the restriction on abortion does nothing to make abortion less necessary—it simply makes abortion more difficult and dangerous.

It is time to lift this ban, and ensure the fair treatment of our military personnel. I urge passage of the Sanchez amendment.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentlewoman from California (Ms. LORETTA SANCHEZ).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. LORETTA SANCHEZ) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 108–120.

AMENDMENT NO. 4 OFFERED BY MRS. TAUSCHER

Mrs. TAUSCHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mrs. TAUSCHER:

At the end of subtitle A of title II (page 30, after line 7), insert the following new section:

SEC. 2___. FUNDING REDUCTIONS AND INCREASES.

(a) INCREASE.—The amount provided in section 201 for research, development, test, and evaluation is hereby increased by $21,000,000, of which—

(1) $5,000,000 shall be available for Program Element 0603910D8Z, strategic capability modernization;

(2) $6,000,000 shall be available for Program Element 0602602F, conventional munitions; and

(3) $10,000,000 shall be available for Program Element 0603601F, conventional weapons technology.

(b) REDUCTION.—The amount provided in section 3101 for stockpile research and development is hereby reduced by $21,000,000, of which—

(1) $15,000,000 shall be derived from the feasibility and cost study of the Robust Nuclear Earth Penetrator; and

(2) $6,000,000 shall be derived from advanced concepts initiative activities.

The CHAIRMAN pro tempore. Pursuant to House Resolution 245, the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from Alabama (Mr. EVERETT) each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering an amendment that addresses a dangerous nuclear policy provision in the defense bill. This amendment cuts $21 million for the robust nuclear Earth penetrator, known as the RNEP, and for new nuclear weapons and redirects that money toward improving our conventional capability to defeat hard and deeply buried targets. As we do this debate today, our military does not have a requirement for nuclear bunker busters. They do, however, need funds for several programs the Pentagon is pursuing to improve our ability to get at hardened targets with conventional weapons.

My amendment would provide additional funding to these critical conventional initiatives without taking the United States down a dangerous road that seeks to find new uses for nuclear weapons and crosses the line from strategic deterrent to offensive use. There are several reasons not to develop an RNEP. Here are just five:

First, it will produce massive collateral damage; second, even the most powerful nuclear weapons cannot destroy bunkers at a certain depth; third, if a bunker is filled with chemical and biological agents, it is only common sense to keep them underground rather than blow them up and spread them all over the place in a mushroom cloud; fourth, an RNEP will cause massive casualties. Detonated in an urban area, it would kill tens of thousands of civilians. Last, developing nuclear bunker busters would undermine decades of work by the United States to prevent nonnuclear states from getting nuclear weapons and encourage nuclear states to reduce their stockpiles.

Until we have exhausted all conventional means to defeat hardened targets and the military service produces a current requirement for an RNEP, it would be irresponsible for Congress to jump the gun and promote new uses for nuclear weapons. Let us learn from history. Nearly half a century ago, President Eisenhower rejected the Council of Advisers who wanted a new variety of nuclear weapons that they said would allow the United States to fight a winnable nuclear war. Eisenhower responded: ''You can't have that kind of war. There just aren't enough bulldozers to scrape the bodies off the streets.''

As we have seen in Afghanistan and Iraq, conventional weapons can do the job. There is no scientific, military, or strategic reason to go nuclear at this time and every reason not to. I urge my colleagues to support the Tauscher amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. EVERETT. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Mexico (Mrs. WILSON), a member of the committee.

Mrs. WILSON of New Mexico. Mr. Chairman, my colleague from California has made a strong argument for unilateral nuclear disarmament. But what she has not made is a good argument for stopping our robust nuclear Earth penetrator program. Nuclear weapons are useful because they are unusable. That is the nature of the nuclear deterrent. And the reason that we are pursuing these studies and why we should reject the Tauscher amendment is because deterrence is the center of what nuclear weapons are all about; it is not because we are changing the way we plan to fight wars. Nuclear weapons are horrible things. Warfare is a horrible thing. But we must maintain the nuclear deterrent so that we can avoid those conflicts.

We have been reducing our nuclear stockpile in this country over the last 10 years, and we will continue to. We signed the Moscow treaty which will bring our stockpile down to levels that we have not seen since the 1950s. We have stopped advanced development and research over the last 10 years and at the same time North Korea, Iran, Iraq, and Russia have continued their weapons development programs. Our unwillingness to research these weapons has not stopped anybody from developing them themselves.

Our potential enemies are burrowing in. They are putting their command and control centers, the people with their fingers on the trigger, in hard and deeply buried bunkers. For deterrence to work, we have to hold at risk those things which our potential enemies value and that means holding hard and deeply buried targets at risk. They are out of reach of conventional weapons. They are out of reach of current nuclear weapons. The robust nuclear Earth penetrator program does not create a new nuclear weapon. It is only intended to explore whether you can encase a weapon in order to allow it to penetrate before it explodes so that you can hold that target at risk and continue to deter the use of weapons of mass destruction against America or its allies.

The base bill includes $280 million for work in conventional weapons against hard and deeply buried targets and only $15 million for these programs in advanced development and for the robust nuclear Earth penetrator program. The advanced concepts program I think is even more important. President Putin announced last week and confirmed what all of us have suspected for some time: the Russians are developing a new generation of nuclear weapons. It is up to the United States to avoid being surprised. That means to constantly study what other nations are doing so that we have a good idea of what is going on.

□ 1815

When I was much younger than I am today, someone gave me a copy of a letter. It was from the archives from President Roosevelt. It was from Albert Einstein. It was a letter advising President Roosevelt that in the course of the last 4 months, it has been made probable that it may become possible to set up a nuclear chain reaction in a large mass of uranium by which vast amounts of power and large quantities of new radium-like elements would be generated. How history would be so different if America had decided that we should not think about the unthinkable. We must continue to maintain our weapons of mass destruction program so that we can never be subject to surprise.

Mrs. TAUSCHER. Mr. Chairman, I yield myself such time as I may consume.

Unfortunately, my colleague from New Mexico, in an attempt to advance her ''more nukes is better than any nukes at all'' argument, has decided to degrade our existing nuclear weapons deterrent and kind of posit that for some reason there are people out there that actually do not believe that we have the most reliable, credible, and safe nuclear deterrent in the world. The truth is we do. We know we do, and we do not need new nuclear weapons to do what we know conventional weapons can do, and we certainly do not need them in a tactical battlefield environment.

Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY), who is the cosponsor of the bill.

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

The bunkers which the Republicans want to drop these nuclear bombs on are in the middle of Baghdad. They are in the middle of P'yongyang in North Korea. These bombs, these nuclear bombs, are bigger and more powerful than the bombs we dropped on Hiroshima. We are like those that would preach temperance from a barstool. We cannot tell the other countries in the world that nuclear weapons are unusable if we are at the same time saying that one can use them, that one can be successful and that one can win if one drops nuclear weapons in the middle of the most densely populated cities in the world.

We just brought Iraq to its knees in 3 weeks using conventional weapons. The signal the Republicans are sending is that nuclear weapons are usable and they are usable in the middle of cities where bunkers are being built. And they are wrong, and it is immoral for our country to be taking this step.

Mr. EVERETT. Mr. Chairman, how much time remains on this side?

The CHAIRMAN pro tempore (Mr. OSE). The gentleman from Alabama (Mr. EVERETT) has 6 minutes remaining. The gentlewoman from California (Mrs. TAUSCHER) has 5½ minutes remaining.

Mr. EVERETT. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WELDON), a very learned member of this committee who has great knowledge on this subject.

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I do not understand this amendment because we reached a compromise on the floor of the House last year, and it was not as my colleagues said, Republicans. In fact, I have the vote here. It was 243 to 172. The last time I checked, there are not 243 Republicans in this House. And that very carefully crafted amendment that we passed was an amendment that was crafted by the gentleman from South Carolina (Mr. SPRATT) and by others that said we should be allowed to continue to do research.

My colleague makes it out as if we want to automatically build some kind of Earth penetrator and that we are some kind of Darth Vaders. The fact is anyone who has studied the Ministry of Atomic Energy and has watched the career of Mr. Mikhailov, who used to be the director of that agency, when he left that agency, he came back as the number two person, and we put on the record in committee from Mr. Mikhailov's own mouth that his job was to develop a whole new class of small atomic munitions that are nuclear.

If we follow through on the logic of those like my friend from Massachusetts, we cannot even research what the Russians are building. That has nothing to do with what we want to build. We cannot even research the small weapons the Russians have said publicly they are building. That is outrageous. That is outrageously stupid.

This is not about whether or not we are going to nuke underground. It is whether or not we allow our scientists to have the ability to do research. The amendment last year which I was able to broker with our side that did not want it said we have to have very tightly defined limits, and we did that. The gentleman from South Carolina (Mr. SPRATT) was the cosponsor of that. The gentleman from South Carolina (Mr. SPRATT) told me in committee he would support that language, and I take him at his word.

This amendment takes all the money from being able to do that research. One cannot do research without money. The proponents of this amendment say we can do this with conventional weapons. We are spending in this bill $279.6 million for conventional weapons in this area. We take away the only money left, which is 15 million; and we say to the scientists the carefully crafted amendment that we did last year in a bipartisan manner on the floor is okay, they are allowed; but we are not going to give them any money. We are not going to give them any money. We are going to take the money away. Cut me a break. Then say

that. Say you want to prohibit the research. Do not say you allow the research with the amendment that the gentleman from South Carolina (Mr. SPRATT) agreed to last year, which I think some of the Members at least supported. I would assume the gentlewoman did support that amendment.

Did the gentlewoman support it last year?

Mrs. TAUSCHER. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentlewoman from California.

Mrs. TAUSCHER. Mr. Chairman, I would. But it was about the low-yield weapons, not about the RNEP.

Mr. WELDON of Pennsylvania. Not about the RNEP. Okay.

Mrs. TAUSCHER. So this is apples and oranges.

Mr. WELDON of Pennsylvania. Mr. Chairman, the point is the gentlewoman has tried to also find the middle ground. And I think not to allow this research by taking the money away is a mistake because, in fact, the Russian Ministry of Atomic Energy has announced publicly they are researching this area, and so have other entities, other countries. North Korea is doing a nuclear program. Therefore, I would strongly urge my colleagues to oppose this amendment and continue to support the bipartisan compromise last year reinforced by our actions in committee.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON), the full committee ranking member.

Mr. SKELTON. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I might say, Mr. Chairman, this is an era of increased concern about weapons of mass destruction. This amendment includes a very prudent approach for enhancing our Nation's ability to hold at risk deeply buried targets. Additional investments in conventional research and conventional development are needed, particularly in the areas of improved targeting and improved planning. Smart fuses, guidance technology, that is what this amendment proposes.

Mr. Chairman, I have spoken with professionals in both our scientific and national security communities, including B–2 bomber pilots, and I have learned one truth: the key to defeating hard deeply buried targets lies more in accuracy and penetration rather than the inherent explosive capability. That is why I think it is prudent to adopt this amendment, continue research on the conventional as opposed to the nuclear.

Mr. EVERETT. Mr. Chairman, I understand that this side has the right to close?

The CHAIRMAN pro tempore. The gentleman is correct.

Mrs. TAUSCHER. I think I do. It is my amendment, I think, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair is informed the gentleman from Alabama (Mr. EVERETT) has the right to close.

Mrs. TAUSCHER. Excuse me, Mr. Chairman, if it is my amendment, why would the other side have the right to close?

The CHAIRMAN pro tempore. The manager of the bill is in opposition to the amendment and has the right to close.

Mr. EVERETT. How much time remains on each side?

The CHAIRMAN pro tempore. The gentleman from Alabama (Mr. EVERETT) has 3 minutes. The gentlewoman from California (Mrs. TAUSCHER) has 4½ minutes.

Mr. EVERETT. Mr. Chairman, I reserve the balance of my time.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, the House approved a war on Iraq because proponents said they were building weapons of mass destruction. Now this same House is on the verge of approving money for the United States to forward new nuclear weapons. How can we look ourselves in the mirror? America should have more honor than that. Simply put, nuclear weapons do not mean greater security, and smaller nuclear weapons do not mean guaranteed safety. These are the delusions that will ultimately lead our country and our world into nuclear destruction. These are the ultimate weapons of mass destruction. The Cold War is over, but the world still balances on the edge of an atomic cliff. Vote for the Tauscher amendment. Make sure we do not fall over the edge.

Mr. EVERETT. Mr. Chairman, I reserve the balance of my time.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I rise in strong support of the Tauscher-Markey amendment. I thank the gentlewoman for her leadership. This Nation does not need to be leading the world in the development of new forms of nuclear weapons. We just do not need to do that. We need to be leading the way in nonproliferation. Nuclear weapons are not simply one more tool at the President's disposal. They are the foremost most fearsome and most destructive force ever invented, and the proliferation of these weapons of incredible mass destruction make us less secure each and every day.

How do we support the elimination of weapons of mass destruction in foreign countries such as Iraq, yet continue to develop them in our own country? Something is really wrong with this picture. We all believe in national security. We all believe in a strong and effective national defense. But building nuclear weapons is not the answer. I urge the Members to support the Tauscher-Markey amendment.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I rise in support of the Tauscher-Markey amendment.

As the ranking member of the Subcommittee on Terrorism, Unconventional Threats and Capability, I know that the threat of weapons of mass destruction is real. In Iraq this country's military demonstrated that it can get the job done effectively against heavily defended bunkers and other targets without the use of nuclear weapons. As we negotiate and persuade other nations around the world not to develop nuclear weapons, our credibility is damaged and undermined when we pursue new types of these weapons for our own arsenals. We should improve our conventional capability to defend hard and buried targets around the world as opposed to traveling down this dangerous path towards increased dependence on nuclear weapons. It does not make sense.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY), the cosponsor of the bill.

Mr. MARKEY. Mr. Chairman, last October I voted for the Bush resolution on Iraq. The reason I did is the President said he wanted to stop Saddam Hussein from obtaining a nuclear weapon, that we were going to stop him and anyone else in the world from the capacity to develop nuclear weapons. The message the Republicans are sending to the world today is that nuclear weapons are usable. If the Russians send nuclear weapons to the United States, shoot them at us, every Trident submarine we have has up to 100 nuclear weapons on it. Russia will be destroyed in 1 day. But if we use one nuclear weapon in Baghdad, in Damascus, in P'yongyang, we will send a signal to dozens of countries in the world that nuclear weapons are usable, and that will destroy our moral and political credibility to end the spread of weapons of mass destruction, especially nuclear weapons, on this planet. This is the most important vote we are going to have, and I urge an ''aye'' vote on the Tauscher amendment so that we fulfill the commitment of those who voted on the resolution to support a war with Iraq in order to stop the spread of nuclear weapons.

Mr. EVERETT. Mr. Chairman, I continue to reserve the balance of my time.

Mrs. TAUSCHER. Mr. Chairman, can I ask how much time I have.

The CHAIRMAN pro tempore. The gentlewoman has 30 seconds.

□ 1830

Mrs. TAUSCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we know that the scientific and military community have said consistently that there are three things needed to defeat deeply hardened and buried targets. They are intelligence, precision targeting and Special Operations forces. They never said

the word ''nuclear.'' There is no need for us to rush to judgment. There certainly is no reason for us to provide money for something that the military has not asked for.

Mr. Chairman, I urge my colleagues to support the Tauscher amendment, to make sure we move the money from nuclear weapons to conventional weapons so we can defeat these targets.

Mr. Chairman, I yield back the balance of my time.

Mr. EVERETT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what has not been mentioned is this takes $6 million away from the Advanced Concepts Initiative, one of our few remaining weapon systems with designers with actual test experience left. Keeping this money in there will give them time to train a new generation of designers before they retire.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Chairman, let me begin by making two points as completely clear as I can:

Number one, it is not a choice between attacking hardened targets with a conventional or a nuclear capability. There is nearly $300 million in this bill to explore conventional capabilities. The question is, should we explore other options as well? So it is false to say there is a choice.

Secondly, this bill does not authorize any kind of new nuclear weapon. That has to be for future Congresses and future administrations to consider. What this bill does is try to remove firewalls which prevent us from even exploring whether a different kind of nuclear weapon can help make us safer. Those who advance this amendment say we do not even want to think about it, do not even consider the possibilities.

It seems to me that if anyone is going to rush to judgment, as the gentlewoman from California said, it would be those who support this amendment, that say under no circumstances are we ever going to have any kind of nuclear deterrent, other than what we had during the Cold War.

The challenge, Mr. Chairman, is that all we have now are nuclear weapons that were specifically designed to deal with Soviet Union targets, and there is a real question about whether a number of folks in the world would take that kind of nuclear deterrent seriously, whether we would ever use the kind of weapons the gentleman from Massachusetts was discussing on a much more limited, smaller kind of target.

The point is not, hopefully, that we would ever use them. The question is people know we would never use these big weapons, and, therefore, they do not take our credibility seriously. That makes the world more dangerous.

It is an interesting line of argument to say that we make the world safer when we tie our hands behind our back, that the problem is with the United States, and that if we would just set a good example, the Saddam Husseins and the Kim Jong Ils and even the Putins would fall right in line, that the United States is the problem.

We have heard that line of argument before, and I would suggest that history has proven it wrong time and time again. The problem is not American strength. The problem is not the United States having additional options. We are not the problem. Peace comes when America is strong and when America has additional options. This bill gives us the ability to at least start to explore those options, and this amendment should be rejected.

Mr. DICKS. Mr. Chairman, I rise in support of this amendment for two reasons. Conventional precision guided munitions are a better technical solution than the Robust Nuclear Earth Penetrator for hardened and deeply buried targets, and because the fallout, both figurative and literal, from the use of nuclear weapons will make the Robust Nuclear Earth Penetrator an expensive showpiece rather than a usable weapon. If we start this program it is more likely to be simply A BUST, rather than RO-BUST.

I've had the opportunity to visit this Spring with the 509th Bomb Wing at Whiteman Air Force Base. The 509th operates the 21 B–2 bombers that constitute the most advanced and effective weapons in the United States military arsenal. These were the pilots who were assigned the mission in Iraq to attack the very kinds of targets we are discussing today, hardened and deeply buried targets. I can tell you that the 509th today can attack, disable, and destroy, these targets. The 509th employs a penetrating version of the JDAM, as well as a 5000 lb. bunker buster. These weapons already beat the ground penetration capability of any nuclear weapon in our arsenal, and new capabilities will do even more. The B–2 will soon be able to employ the EGBU–28 bunker buster thanks to support in Congress to field this capability. And advanced research of binary warhead weapons and the use of conventional highly energetic materials will yield even more effective approaches for conventional alternatives.

Indeed, the Tauscher amendment would add funding to three program elements of the Air Force and OSD R&D budgets which are working on just these conventional ground penetration approaches. I believe these conventional capabilities offer technical solutions not just equal to, but superior to those offered by even so-called ''low-yield'' nuclear approaches.

Vote for the Tauscher amendment and support the development of weapons our military can really use.

The CHAIRMAN pro tempore (Mr. OSE). All time has expired.

The question is on the amendment offered by the gentlewoman from California (Mrs. TAUSCHER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mrs. TAUSCHER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Mrs. TAUSCHER) will be postponed.

It is now in order to consider Amendment No. 5 printed in House Report 108–120.

AMENDMENT NO. 5 OFFERED BY MR. HOEFFEL

Mr. HOEFFEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. HOEFFEL: At the end of title X (page 333, after line 21), insert the following new section:

SEC. ___. REPORT CONCERNING STRATEGIC NUCLEAR WARHEADS DISMANTLED PURSUANT TO THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE RUSSIAN FEDERATION ON STRATEGIC OFFENSIVE REDUCTIONS.

Not later than 60 days after the exchange of instruments of ratification of the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions or 60 days after the date of the enactment of this Act, whichever occurs last, and on February 15 of each subsequent year, the President shall submit to Congress a report concerning any strategic nuclear warheads dismantled within the boundaries of the treaty during the preceding calendar year and any such warheads to be dismantled in that calendar year, pursuant to such treaty. During the one-year period beginning on the date of the exchange of instruments of ratification of such treaty, any such report shall not include information concerning any dismantling of warheads during the preceding calendar year.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. HOEFFEL) and a Member opposed each will be recognized for 5 minutes.

Mr. EVERETT. Mr. Chairman, I claim the time in opposition to the amendment, but I will not oppose the amendment. We will accept the gentleman's amendment.

The CHAIRMAN pro tempore. Without objection, the gentleman from Alabama (Mr. EVERETT) will be recognized for 5 minutes.

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. HOEFFEL) is recognized.

Mr. HOEFFEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer this amendment to require the President to make an annual report to Congress and to the American people on the number of nuclear warheads that are dismantled each year by either the Americans or by the Russians under the terms of the Moscow Treaty.

Mr. Chairman, one of the most pressing issues we face is the question of nuclear nonproliferation. A year ago, Presidents Bush and Putin signed the Moscow Treaty, the Treaty on Strategic Defensive Reductions. It is a good treaty and is good for this country. It is only three pages long, however, quite a change from the 900-page START treaties of prior negotiations.

It does not establish a timetable for implementation. It lacks verification. But the most striking change that I think we need to address is that there

is no requirement that the warheads that are reduced from the 5,000 or 6,000 that each side currently possesses down to 1,700 or 2,000, there is no requirement that those warheads be dismantled. They could be retired, put into a closet someplace and brought back on a moment's notice.

I think it is in the best interests of this country that those warheads be dismantled and that the President make an annual report to the Congress on how many of those warheads are being dismantled, both by this country and by the other side, so that Congress can, through that mechanism, verify the progress and verify that the disarmament is occurring.

Mr. Chairman, I reserve the balance of my time.

Mr. EVERETT. Mr. Chairman, I reserve my time.

Mr. HOEFFEL. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY), a leader in nonproliferation issues.

Mr. MARKEY. Mr. Chairman, I would like to use that 1 minute to compliment the gentleman from Pennsylvania (Mr. HOEFFEL) for his amendment and the gentleman from Alabama (Mr. EVERETT), because we clearly have a meeting of the minds here that there should be an ongoing accounting of what is going on in the area of dismantling of these weapons in the former Soviet Union.

The gentleman from Pennsylvania (Mr. HOEFFEL) I think has put his finger on a very real defect that exists in the current system. By ensuring that there will be an accounting scheme that is put into place, I think that we are going to be able to much more quickly advance the goal of nuclear nonproliferation.

I thank the gentleman for making his very important amendment.

Mr. HOEFFEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to thank the gentleman for his kind comments and simply close by in turn thanking the gentleman from Alabama (Mr. EVERETT) and the majority side and majority staff for their cooperation on this amendment and for their cooperation on this issue. I am glad that there is bipartisan agreement, and I salute the gentleman from Alabama (Mr. EVERETT) and thank him for his cooperation.

Mr. Chairman, I yield back the balance of my time.

Mr. EVERETT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just simply point out, as the gentleman from Pennsylvania recognized in his statement, that the treaty does not require this actual dismantling to take place, only that they are removed from deployment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. HOEFFEL).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider Amendment No. 6 printed in House Report 108–120.

AMENDMENT NO. 6 OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. GOSS:

At the end of title XII (page 384, after line 3), insert the following new section:

SEC. ___. REPORT ON ACTIONS THAT COULD BE TAKEN REGARDING COUNTRIES THAT INITIATE CERTAIN LEGAL ACTIONS AGAINST UNITED STATES OFFICIALS.

(a) FINDING.—Congress finds that actions for or on behalf of a foreign government that constitute attempts to commence legal proceedings against, or attempts to compel the appearance of or production of documents from, any current or former official or employee of the United States or member of the Armed Forces of the United States relating to the performance of official duties constitutes a threat to the ability of the United States to take necessary and timely military action.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on appropriate steps that could be taken by the Department of Defense (including restrictions on military travel and limitations on military support and exchange programs) to respond to any action by a foreign government described in subsection (a).

The CHAIRMAN pro tempore. Pursuant House Resolution 245, the gentleman from Florida (Mr. GOSS) and a Member opposed each will control 10 minutes.

The CHAIRMAN pro tempore. Does any Member seek the time in opposition?

Mr. SKELTON. Mr. Chairman, I claim the time in opposition. As far as I know, there is no opposition.

The CHAIRMAN pro tempore. Without objection, the gentleman from Missouri is recognized for 10 minutes.

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are living in a world that we all know has been transformed very dramatically by the threat of rogue states, terrorist organizations, and Lord knows we are definitely aware of it today.

There are new costs involved in everyday life and new cautions we must heed to keep Americans safe. This is the reality of life today.

One thing that must remain constant is our ability to ensure that our soldiers, our diplomats, our public officials, no matter whether they are in uniform or not, no matter where they are located, they must serve under the honorable and meaningful protection of the flag of the United States of America.

This protection is currently threatened by any country that allows U.S. citizens to be tried for alleged war crimes and alleged crimes against humanity. These cases, coming under the so-called concept of ''universal jurisdiction,'' are cases that are usually filed in support of radical anti-Americanism for strictly political reasons that can create, unfortunately, serious obstacles for our officials to go about the conduct of their proper official business overseas.

From the perspective of our national security, the United States cannot afford to have our military commanders hindered while accomplishing the actions we ask of them necessary to ensure the safety of Americans. For example, our General Tommy Franks, of whom we are so proud, commander of our military forces in Iraq, has now a ridiculous lawsuit filed against him that alleges violations of international law.

Should the Belgium court system, where this case is filed, decide to try this case, General Franks risks being unable to travel to Brussels, the location of NATO headquarters, due to the threat of prosecution.

This amendment calls for a quick study by DOD to report to Congress on appropriate actions that could be taken when any country provides for and encourages extra-legal actions against United States officials doing their proper business under some type of so-called ''universal jurisdiction.''

We are not about to compromise our sovereignty, especially for our fighting forces protecting our freedoms on the battlefields overseas, nor should we tolerate or award the abuse of other nations' judicial systems in order to create obstacles for our troops and officials. American officials safeguarding our liberties on foreign soil must know that they can count on the rights that we as American citizens hold dear to be able to accomplish what we are asking them to undertake.

This would seem to be a frivolous matter, except it has been picked up by the press around the world and is becoming somewhat of a celebrated case.

I now am going to quote from BBC news that says, ''The action against General Franks is likely to be a test of recent revisions to the law in Brussels following high-profile cases brought against the Israeli Prime Minister Ariel Sharon and the former U.S. President George Bush, Sr.''

BBC goes on to say that the plaintiff in the case, the lawyer who is running for political office, I would point out, has told reporters, ''General Franks is responsible as commander-in-chief for the way some of his men acted on the ground. For instance, the use of cluster bombs on civilian areas is a war crime.''

I think that everybody would agree with that, but there is no proof. It is an allegation, and, of course, it is an outrage, because General Franks did no such thing.

The quote goes on to say that the suit also names Marine Lt. Colonel

Brian McCoy, who is accused of categorizing the ambulances as legitimate targets because he suspected them of harboring gunmen, so said, I guess, AFP, in this case Agency French Press.

□ 1845

When we start taking a look at the notoriety that these allegations are bringing to our honorable men and women in uniform overseas, we can see that we are beginning to have a problem.

Going back further to how this happened, we look to some of the press, and I am now quoting from the Seattle Press Intelligencer: ''In response to a global groundswell of demand discernible only to the Belgians, the Belgians awarded themselves the power to try anyone for war crimes committed anywhere.'' That is what we are confronting. ''Franks is charged with the bombing of civilians, indiscriminate shooting by U.S. troops, and the failure to stop looting. McCoy is charged with ordering troops to fire on ambulances.''

These are charges that are being waved about, as I say, in the press, both at home and internationally, without any kind of responsible person standing up and saying that this is hogwash and absurd; and it is time that happened. I think the best way to do it is this amendment.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I would say to the gentleman from Florida, we have examined the amendment. I find no objection to it. As far as I know, there is no opposition to it.

Mr. GOSS. I thank the distinguished gentleman. I would certainly hope there is support for it.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, let me say that I am so glad that the distinguished chairman of the Permanent Select Committee on Intelligence has brought this amendment, because this goes to the very heart of the purpose of our operation in Iraq, the honor with which we conducted this operation, the integrity of our leadership, and what I would call perhaps a backbiting response from certain elements in the international community, and, lastly, an appropriate response from the United States, which is suggested by the gentleman.

So I think that the gentleman's amendment is right on point, and I will work with my partner, the gentleman from Missouri (Mr. SKELTON), to see to it that this amendment becomes law.

Mr. GOSS. Reclaiming my time, Mr. Chairman, I am most thankful to the distinguished chairman of the committee for that statement. I would advise Members that I think this is an issue that most Members would like to be heard on, so while I am relatively certain we could win this vote now tonight, I am going to ask for a recorded vote tomorrow when the appropriate moment comes.

Mr. Chairman, I yield back the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from Florida (Mr. GOSS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. GOSS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. GOSS) will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 108–120.

AMENDMENT NO. 7 OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. GOSS:

At the end of title XII (page 384, after line 3), insert the following new section:

SEC. ___. ASSESSMENT AND REPORT CONCERNING THE LOCATION OF NATO HEADQUARTERS.

(a) ASSESSMENT.—The Secretary of Defense shall conduct a full and complete assessment of costs to the United States associated with the location of the headquarters of the North Atlantic Treaty Organization (NATO) in Brussels, Belgium, and the costs and benefits of relocating that headquarters to a suitable location in another NATO member country, including those nations invited to join NATO at the Prague summit in 2002. The Secretary shall conduct such assessment in consultation with the Secretary of State.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report of the findings of the assessment under subsection (a).

The CHAIRMAN pro tempore. Pursuant to House Resolution 245, the gentleman from Florida (Mr. GOSS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we all understand the geopolitical climate has changed tremendously in the last couple of years. Ruthless dictatorships have come and gone, democratic nations have continued to thrive, and many challenges continue to confront us.

Many challenges have been met by the United States with the help of steadfast allies in coalitions and steadfast allies in NATO. As the global evolution continues, it is prudent to pose some topical questions, particularly as we are doing this defense authorization bill.

One of those topical questions should be, is NATO now headquartered in the correct place? Is it located in a centralized area both conducive and friendly to all members of NATO?

It is the responsibility of Congress to conduct necessary oversight in this matter. NATO is expanding its membership to include seven countries from Eastern and Central Europe. This, of course, is in addition to the inclusions of Poland, Hungary, and the Czech Republic a few years ago. I would say that Members of this body have been very instrumental in assisting for the growth and enlargement of NATO to become an even more meaningful organization doing even more meaningful things today.

I think all of this reflects the burgeoning wave of democracy and freedom that is actually sweeping through that region. Those folks are looking to us for leadership and assistance in their defense, and NATO understands this trend. So the question arises, would a more centralized location of NATO headquarters enhance NATO's effectiveness?

NATO's mission is also adapting to the current geopolitical conditions. NATO is in fact a peacekeeper. Its capabilities are a great asset to us and to others, and a more centralized headquarters might indeed facilitate the shifting tasks that NATO is undertaking.

Let me be clear: NATO is a vital, integral component of our global security system. It must continue to function with strength and effectiveness in this century. I am a very big proponent of NATO. I am a member of the House NATO Parliamentarians Group. I have been many, many times to those meetings across the pond.

Our group is masterfully led by our colleague, the gentleman from Nebraska (Mr. BEREUTER). It is bipartisan. It is a wonderful reflection of the United States of America and the working relationship with our allies on important and, in fact, critical national security problems; and it is carried out brilliantly through the NATO parliamentarians organization, of which the gentleman from Nebraska (Mr. BEREUTER) is currently the president.

So this is not about NATO; it is about the best location for NATO under the circumstances of the time. This amendment simply calls for a study by DOD of the costs associated with the current location of NATO's headquarters and the potential costs and benefits of relocating the headquarters to another location in Europe.

This study should reflect the geopolitical realities that exist today, including especially the need to economize on our military overhead and our military and administrative costs, and reduce those where possible, and, of course, get rid of as much red tape as is possible.

So there are a bunch of reasons to talk about centralizing NATO headquarters, with the encouragement of stability and democratic government

in Eastern Europe not the least among them.

There is also, of course, the matter of the ''universal jurisdiction'' law problem in Belgium that we have recently spoken about that has an unnecessarily chilling impact on military hospitality. I am sorry to say that.

I note that even General Myers has gotten up, and I would quote from the Chicago Sun-Times: ''General Richard Myers, chief of the U.S. General Staff, intervened in the argument with Belgium,'' it has gotten to that level, ''after American officials expressed fears that the Belgian war crimes laws would expose NATO officers to the risk of arrest.'' This is a serious problem, and, of course, totally unnecessary.

I think the question we should ask that the chairman of the committee and I have talked about is are we getting the best bang for the buck from Brussels? I think that it is time for DOD to take a look at that. Remember, NATO was supposed to start in Paris. It did not fit in Paris, so it ended up in Brussels. Maybe it does not fit in Brussels today and it should end up somewhere else. This is what this is about.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I appreciate the gentleman bringing this amendment to the floor. I think his question is right on point: Are we getting the best bang for the buck in Brussels? We are getting something in Brussels, but it is not effective leadership. I think he has asked a question that has to be answered.

In fact, I have an amendment coming up here shortly that asks the President to evaluate our total footprint in Europe with an eye towards perhaps replacing that footprint.

I have been looking at some of the cost of living and also the hospitality of other nations. One of those new nations is a nation that helped the United States in Iraq, Poland. Poland has a cost of living that is much lower than that in Brussels, so presumably our people, uniformed and nonuniformed, who live there will be able to live better on military pay than they do in Brussels. It would not be bad, I think, for military folks to be in an environment, which they would be in Poland, with a nation that has just stood side by side with us on a battlefield in the world.

There are no words as eloquent as actions. The actions of that force, and it was not a big force, but it was about 200 special operators that participated in Iraq, impressed me greatly and I think would impress the President.

The other aspect of this, since the gentleman has opened this debate and this issue, is I am going to bring up the fact in my amendment that we have 72,400 American uniformed personnel in Germany. We did an entire hearing on this footprint. There is nobody on the other side of the Fulda Gap with a tank. In the old days, there were dozens of divisions of Warsaw Pact military units on the other side of the Fulda Gap. That is why we had a heavy military presence in Germany. That presence is not there now.

So this is a second question, but not totally unlike the question the gentleman is asking, because whereas we might want to move out of Brussels for altogether different purposes than moving out of Germany, the receptivity of other nations at alternate sites is a major issue with both amendments.

Once again, we are putting some money in the bill for doing some preliminary military work, things like runways and things like that, in Poland and Bulgaria and Romania, three of the nations from what Don Rumsfeld called, maybe with justification, the new Europe.

I want to thank the gentleman for his contribution. Let me tell the gentleman, I would certainly, and I want to hear what my ranking member has to say, because he is such an expert in these areas, but I think this is an excellent amendment.

Mr. GOSS. I thank the distinguished gentleman.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I think, frankly, this is a good amendment, for two reasons.

The first is it calls for an assessment by the Secretary of Defense, in consultation with the Secretary of State, because this is a diplomatic as well as a military organization.

Secondly, it would be up to the North Atlantic Treaty Organization to make any final decision, but information such as cost that this amendment is aimed at I think is good information. So I find myself in agreement with it.

Mr. GOSS. Mr. Chairman, I want to thank both distinguished leaders of the very important Committee on Armed Services for their support and understanding of these amendments.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. GOSS).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 8 printed in House Report 108–120.

AMENDMENT NO. 8 OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. SAXTON:

At the end of subtitle B of title V (page 91, after line 16), insert the following new section:

SEC. 514. REPEAL OF REQUIRED GRADE OF DEFENSE ATTACHÉ IN FRANCE.

(a) IN GENERAL.—Section 714 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 41 of such title is amended by striking the item relating to section 714.

The CHAIRMAN pro tempore. Pursuant to House Resolution 245, the gentleman from New Jersey (Mr. SAXTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Chairman, I yield myself such time as I may consume.

This amendment will repeal the statutory requirement that an officer in our Armed Forces, in order to be selected for assignment as the Defense Attaché to France, must hold the rank of brigadier general, or, in the case of a Navy officer, rear admiral lower half.

The Department of Defense included the repeal of this requirement as part of their budget request for fiscal year 2004, and there is no justification for continuing this statutory mandate, in my opinion.

The adoption of this amendment will not prevent our military attaché in Paris from being a brigadier general or a rear admiral; rather, it will only remove the requirement that they be of that rank. It will permit the Department of Defense greater flexibility in making their decisions to assign officers to that position.

Most importantly, adoption of this amendment will end the unnecessary requirement that our military attaché to France be of a higher rank than our military attachés everywhere else in the world. The United States has 135 defense attaché positions in our embassies around the world. Of those 135, only three, those of France, Russia, and China, are officers that hold the rank of brigadier general or rear admiral.

Our attaché to France is the only military attaché whose rank is mandated by law in title 10. Accordingly, France is the exception to the rule. The requirement that our military attaché to France be a brigadier general is not consistent with our military attachés to other nations.

□ 1900

Today I believe we all need to question whether it is appropriate to mandate that our military attaché to France be of a higher rank than everywhere else in the world.

Under President Jacques Chirac, France actively opposed the United States and our allies in the recent war with Iraq. The French government used all of its influence to prevent the removal of Saddam Hussein from power and hindered our efforts to enforce United Nations Security Council Resolutions that required the removal of weapons of mass destruction from his possession. By doing so, France failed to accept its responsibilities and deliberately acted counter to the national security interests of the United States. In NATO, France does not fully participate in the Organization's integrated

military command, yet we require that our military attaché to Paris be of a higher rank than all of our attachés in NATO member countries. We thus provide France with a status not in line with its NATO responsibilities.

I find it entirely inappropriate that we have mandated that our military attaché to France be a higher rank than military attachés to nations such as Great Britain, who never balked at fighting side by side with us in our war on terrorism.

As the position of defense attaché to France is now vacant, the repeal of the statute would have no impact on an incumbent, and this is the perfect opportunity to bring consistency to our military attaché postings.

Mr. Chairman, I urge support for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I claim the time in opposition to this amendment.

Mr. Chairman, I yield myself such time as I may consume.

It not only makes the law consistent with the rest of the statutes regarding the qualifications for an attaché which should have been done some time ago, I think it also sends a message to that country regarding recent activities insofar as expectations and friendship go. I must tell you how disappointed I am in that country regarding that. But, nevertheless, this does bring in line the law as it applies to all other attachés in all other countries, and I think it is an excellent amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SAXTON. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. HUNTER), the chairman of the full committee.

Mr. HUNTER. Mr. Chairman, I want to add my commendations to the gentleman from New Jersey (Mr. SAXTON), one of the absolute finest members of this great Committee on Armed Services and a guy who cares a lot about the fighting forces of the United States and also cares a lot about countries who stand with us in times of difficulty; and I think his amendment is right on point.

I understand this amendment has a message beyond the message of conforming with similar situations in other countries around the world. There is perhaps a message to Paris here. I think it is an appropriate one as I add my commendation to the gentleman and I strongly support this amendment.

Mr. SAXTON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from New Jersey (Mr. SAXTON).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. SAXTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. SAXTON) will be postponed.

It is now in order to consider amendment No. 9 printed in House Report 108–120.

AMENDMENT NO. 9 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. HUNTER:

At the end of title XII (page 384, after line 3), insert the following new section:

SEC. ___. SENSE OF CONGRESS ON REDEPLOYMENT OF UNITED STATES FORCES IN EUROPE

(a) FINDINGS.—Congress makes the following findings:

(1) In March 1999, in its initial round of expansion, the North Atlantic Treaty Organization (NATO) admitted Poland, the Czech Republic, and Hungary to the Alliance.

(2) At the Prague Summit on November 21–22, 2002, the NATO heads of state and government invited the countries of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to join the Alliance.

(3) The countries admitted in the initial round of expansion referred to in paragraph (1) and the seven new invitee nations referred to in paragraph (2) will in combination significantly alter the nature of the Alliance.

(4) During the first 50 years of the Alliance, NATO materially contributed to the security and stability of Western Europe, brining peace and prosperity to the member nations.

(5) The expansion of NATO is an opportunity to assist the invitee nations in gaining the capabilities to ensure peace, prosperity, and democracy for themselves during the next 50 years of the Alliance.

(6) The military structure and mission of NATO has changed, no longer being focused on the threat of a Soviet invasion, but evolving to handle new missions in the area of crisis management, peacekeeping, and peace-support in the Euro-Atlantic area of operations.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the expansion of the North Atlantic Treaty Organization Alliance and the evolution of the military mission of that Alliance requires a fundamental reevaluation of the current posture of United States forces stationed in Europe; and

(2) the President should—

(A) initiate a reevaluation referred to in paragraph (1); and

(B) in carrying out such a reevaluation, consider a military posture that takes maximum advantage of basing and training opportunities in the newly admitted and invitee states referred to in paragraphs (1) and (2), respectively, of subsection (a).

The CHAIRMAN pro tempore. Pursuant to House Resolution 245, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to ask my colleagues to support this amendment.

As we stand here, the strategic landscape facing the United States is a lot different than it was just a couple of years ago. After September 11, 2001, we embarked on a global war on terrorism, and since that day we have engaged in two successful campaigns in Afghanistan and Iraq. In doing so, we removed one of the major contingencies that served as a basis for force planning during most of the 1990s.

In the wake of these events, it is clear that we need to evaluate our military posture. Across the globe, and particularly in Europe, we remain deployed much as we were at the end of the Cold War and, in some instances, much the same as at the end of World War II. The time has come to adapt our global posture in order to meet the challenges of new era, not to meet those of an era gone by.

Earlier this year, General Jones, the commanding general of U.S. European command, outlined his thoughts regarding the change of our nature and presence in Europe from a garrison force to what he called an expeditionary force. Under this concept, U.S. military units would rotate overseas on a periodic basis, rather than be permanently stationed in Europe. Our bases in Europe would become in General Jones' words ''lily pads,'' bases from which our forces would deploy to crisis areas around the world.

Based on this idea, the committee held a hearing in February to explore this changing nature of our posture in NATO. It became clear that NATO will continue to change. No longer postured to defend Western Europe against the Soviet threat, NATO is evolving to a force that will undertake contingency operations both inside and outside Europe. At the same time, NATO's membership continues to grow and the admission of many former Warsaw Pact nations has moved the borders of the alliance further east and south. We have to recognize those changes within NATO and take appropriate action to ensure our contribution remains relevant.

As a result of that hearing and General Jones' initiative, I offer this amendment today. It simply states it is the sense of Congress, in light of the changing nature of NATO and the strategic landscape worldwide, that the President should reevaluate our posture in Europe and take maximum advantage of any basing and training opportunities among NATO's newly joined and invitee states in Eastern Europe.

I urge my colleagues to send a message to the administration and to our current and future NATO allies that we understand the changing nature of the alliance and stand in strong support of the alliance as it faces the challenges of the 21st century.

Mr. Chairman, in the previous amendments we have talked about this a little. My partner on this committee, the ranking member, the distinguished

gentleman from Missouri (Mr. SKELTON), has some very eloquent and wise thoughts on this issue.

We have had a hearing on our footprint in Germany, the 72,400 uniformed personnel in Germany, about 55,000 of whom are Army personnel; and we have also looked at the fact that American personnel can live much less expensively in places like Poland.

Mr. Chairman, from my own perspective, I will never forget that at a time when we had a dwindling list of allies who wanted to participate side by side with our young Americans who were laying their lives on the line in the Iraq conflicts, Poland sent a contingent of some 200 special operators into that theater and served with us in battle. I think it would be very appropriate, in fact, this committee has seen fit to place some money for military expenditures, for some early preliminary work in Poland, Bulgaria and Romania; and I think that we should certainly look at this Europe, this new Europe that Secretary Rumsfeld talks about in terms of the changing requirements that we have and the resultant changing strategic posture of the United States in Europe.

Mr. Chairman, I would offer this amendment. I look forward to comments from the gentleman from Missouri (Mr. SKELTON).

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I claim the time in opposition.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I know of no opposition to the amendment. I personally endorse it and support it.

Times have changed. Situations have changed. But I think one fact that is very important is the fact that NATO is an ongoing, successful organization, and it has recently expanded, and we should take advantage of that expansion and the friendship that is growing as a result of the new members of the North Atlantic Treaty Organization.

This amendment requires a reevaluation of the current posture of American forces in Europe. It is designed only for the American forces, and it calls for a reevaluation.

I think there are a number of things we could and should consider. To begin with, I think it is important for us to remember that stationing troops in Germany is a very positive thing and that we should not rush to judgment just to move troops from Germany. But having said that, I think it is a good idea to take a look at the eastern countries. Poland, our chairman mentioned, and to their great credit, side by side, they have their special forces there, theirs with ours, in Iraq. Consequently, I think we should take advantage of that new-found friendship and that new-found military cooperation with that country and, of course, others in the region that are new to the NATO organizations.

Consider the entire picture, not being prejudiced one way or the other, but, A, take advantage of the new friends and those that are willing to help us; B, remember our old obligations and the admonitions of some that we should keep a strong footprint in Germany.

With that, I fully agree with the chairman's amendment, and I intend to support it, and I thank him for offering it at this time.

Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

The amendment was agreed to.

The CHAIRMAN pro tempore. No further amendments being in order, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. EVERETT) having assumed the chair, Mr. OSE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE). The Chair announces the proceedings will resume tomorrow on the motions to suspend the rules and pass H.R. 1683 and H.R. 1257, originally considered yesterday.

□ 1915

VACATING ADOPTION OF SENATE CONCURRENT RESOLUTION 46, AMENDING SAID CONCURRENT RESOLUTION, AND ADOPTING CONCURRENT RESOLUTION AS SO AMENDED

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that the action of the House adopting Senate Concurrent Resolution 46 be vacated to the end that the House hereby amend the concurrent resolution by striking ''Secretary of the Senate'' and inserting in lieu thereof ''Clerk of the House'' and adopt the concurrent resolution, as so amended.

The SPEAKER pro tempore (Mr. OSE). Is there objection to the request of the gentleman from California?

There was no objection.

CONGRESSIONAL SPEEDWAY CAUCUS

(Ms. CARSON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CARSON of Indiana. Mr. Speaker, I rise to announce the formation of the Congressional Speedway Caucus. Races like the Indianapolis 500, the Daytona 500 and the Southern 500 have become American institutions.

Hundreds of companies and thousands of individuals strive to make these spectacles of speed some of the most exciting events in the world. However, they are beginning to face unique challenges in the post-9/11 world. With some of the speedways in America hosting the largest spectator events in the country, they are already starting to express concern about homeland security needs and how they can better protect the hundreds of thousands of race fans who come to their raceways.

I have one of the greatest events, Mr. Speaker, in my district, the Indianapolis 500 Speedway Race, which is coming up next Sunday. We have 32 Members of Congress who have speedways within their congressional districts. Twenty-two of these have already agreed to be members of this exciting caucus.

I would encourage those with or without speedways in their districts to join the caucus to better represent all of the fans across the world who come to our district who come to this country to enjoy this spectator sport and try to resolve some of the impending issues of these speedways.

Mr. Speaker, I would like to insert the names of all of the members of the Speedway Caucus who have stepped forward and joined this unique opportunity. They are as follows:

Rep. Virgil Goode (R–VA).
Rep. Charles Bass (R–NH).
Rep. Sue Myrick (R–KS).
Rep. Dennis Moore (R–KS).
Rep. Robin Hayes (R–NC).
Rep. Mike McIntyre (D–NC).
Rep. Dan Burton (R–IN).
Rep. John Spratt (D–SC).
Rep. Lincoln Davis (D–TN).
Rep. Bill Lipinski (D–IL).
Rep. Amo Houghton (R–NY).
Rep. Ken Lucas (D–KY).
Rep. Mike Oxley (R–OH).
Rep. Mike Pence (R–IN).
Rep. Bob Etheridge (D–NC).
Rep. Cass Ballenger (R–NC).
Rep. Nick Smith (R–MI).
Rep. Paul Kanjorski (D–PA).
Rep. Dennis Cardoza (D–CA).
Rep. Chris Chocola (R–IN).
Rep. J. Gresham Barrett (R–SC).
Rep. Harold Ford, Jr. (D–TN).
Rep. Jim Gibbons (R–NV).
Rep. Fred Upton (R–MI).
Rep. Mac Collins (R–GA).
Rep. Robert Scott (D–VA).
Rep. Jerry Costello (D–IL).
Rep. Ed Pastor (D–AZ).
Rep. Jim Copper (D–TN).
Rep. John Tanner (D–TN).
Rep. Patrick Toomey (R–PA).
Rep. Shelley Berkley (D–NV).
Rep. Rob Simmons (R–CT).

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. JANKLOW) is recognized for 5 minutes.

(Mr. JANKLOW addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. CULBERSON) is recognized for 5 minutes.

(Mr. CULBERSON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

AUTHORIZING COMMITTEE TARGETS FOR THE ELIMINATION OF WASTE, FRAUD, AND ABUSE IN GOVERNMENT PROGRAMS SUBMITTED BY THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I submit for printing in the CONGRESSIONAL RECORD targets for the elimination of waste, fraud and abuse in Government programs under the authority of Section 301 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004 (H. Rept. 108–71).

Section 301 of the budget resolution requires House and Senate authorizing committees to submit findings to the Committees on the Budget that provide for the elimination of waste, fraud and abuse in programs under their jurisdiction. The level of savings to be achieved by each committee was left unspecified in the budget resolution; the Chairmen of the Committees on the Budget were directed to submit those levels of savings for publication in the RECORD subsequent to adoption of the budget resolution.

The following savings targets, which are consistent with the level of savings expected from Senate authorizing committees, represent the minimum expectations for cost reductions derived from the improvement of economy, efficiency, and effectiveness of programs within the jurisdiction of each House committee. The publication of these targets does not represent a level of programmatic reductions (''cuts'') mandated by the Committees on the Budget, but rather a recommendation that the committees of jurisdiction find efficiencies equal to 1 percent of the net cost of the programs within their jurisdiction through the elimination of waste, fraud, and abuse.

TARGETS FOR THE ELIMINATION OF WASTE, FRAUD AND ABUSE UNDER SECTION 301 OF THE BUDGET RESOLUTION BY HOUSE AUTHORIZING COMMITTEE

[By fiscal year, in billions of dollars]

	2004	2004–08	2004–13	Total mandatory spending in budget resolution
Agriculture:				
BA	−0.495	−2.572	−5.254	525.250
Outlays	−0.455	−2.396	−4.945	494.464
Armed Services:				
BA	−0.779	−4.202	−9.179	918.038
Outlays	−0.777	−4.195	−9.165	916.462
Education and the Workforce:				
BA	−0.205	−1.144	−2.513	251.767
Outlays	−0.197	−1.103	−2.431	243.590
Energy and Commerce:				
BA	−1.802	−10.583	−26.512	2,649.002
Outlays	−1.815	−10.594	−26.523	2,650.184
Financial Services:				
BA	−0.072	−0.380	−0.751	75.044
Outlays	−0.018	−0.061	−0.095	2.817
Government Reform:				
BA	−0.827	−4.496	−9.998	999.817
Outlays	0.812	−4.423	−9.859	985.880
House Administration:				
BA	−0.002	−0.010	−0.020	2.112
Outlays	−0.004	−0.012	−0.024	2.334
International Relations:				
BA	−0.100	−0.599	−1.289	128.893
Outlays	−0.119	−0.563	−1.181	118.132
Judiciary:				
BA	−0.072	−0.319	−0.652	65.225
Outlays	−0.065	−0.319	−0.644	64.444
Resources:				
BA	−0.033	−0.158	−0.314	32.724
Outlays	−0.030	−0.149	−0.297	30.646
Science:				
BA	—	—	—	0.341
Outlays	−0.001	−0.003	−0.003	0.513
Small Business:				
BA	—	—	—	0.006
Outlays	—	—	—	n.a.
Transportation and Infrastructure:				
BA	−0.491	−2.689	−5.484	640.539
Outlays	−0.143	−0.763	−1.578	157.850
Veterans' Affairs:				
BA	−0.342	−1.833	−3.864	386.551
Outlays	−0.340	−1.825	−3.850	384.941
Ways and Means:				
BA	−5.495	−30.411	−71.339	7,616.989
Outlays	−5.517	−30.467	−71.428	7,625.699
Total:				
BA	−10.715	−59.396	−137.169	14,292.298
Outlays	−10.293	−56.873	−132.023	13,677.880

Note.—Section 301(c) of H. Con. Res. 95 does not include the House Select Committee on Intelligence.
''—'' means less than $500,000.

I look forward to working with House committees in the future development of legislative initiatives to ensure the delivery of Government programs in the most cost-effective manner.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SHERMAN) is recognized for 5 minutes.

(Mr. SHERMAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. DOGGETT) is recognized for 5 minutes.

(Mr. DOGGETT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. EDWARDS) is recognized for 5 minutes.

(Mr. EDWARDS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. FROST) is recognized for 5 minutes.

(Mr. FROST addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

(Mr. GREEN of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. RODRIGUEZ) is recognized for 5 minutes.

(Mr. RODRIGUEZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

(Mr. STRICKLAND addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BALLANCE) is recognized for 5 minutes.

(Mr. BALLANCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

(Ms. CORRINE BROWN of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

IMMIGRATION AND AMNESTY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TANCREDO. Mr. Speaker, I rise tonight to discuss a topic not unfamiliar to those who know that I have a passion for and an interest in the issue of immigration and immigration reform. Tonight, I wanted to specifically refer to a proposal that has made its way forward and that has a number of interesting aspects.

As you know, Mr. Speaker, over the last couple of years anyway, there have been attempts on the floor of the House here where many people have tried to advance the cause and idea of amnesty for people who are living here in the United States illegally. It is something we have done before, something we did in the mid-1980s, and it has proven to be disastrous from a variety of standpoints.

You may recall that as a result of amnesty for millions of people living here illegally, millions more people came illegally. Of course, this is only logical. It is not surprising whatsoever that if you tell someone that they can enter the United States without going through the legal process, without going through the expense and waiting in line, and that if they do that they will be rewarded for that activity; that we will provide you with all of the benefits of those people who did wait in line, well, then, of course, people will not wait in line. It is pretty logical.

Nobody really, I think, is too surprised by the fact that when I do travel to the border and I talk to the border patrol, they always say, I hope you guys up there will stop using the word ''amnesty.'' Because every time you even utter the word, the flood I am trying to stop down here, with the sieve that you have given me, turns into a tidal wave. And, of course, it would always do so.

Now, we have been successful, those of us who have been opposed to the continuation, or an expansion, of this concept of amnesty, expansion of what is bureaucratically and legalistically referred to as 245(i), those opposed to 245(i) expansion have been successful in stopping it from actually occurring. It came through the House here, and it did pass the House by one vote but failed in the Senate. Actually, it failed because Senator BYRD put a hold on the bill and it did not come up.

There is little sentiment in the Congress of the United States for this concept. The President has pushed it, but there is little sentiment for it here. And, frankly, I doubt that there is going to be a major effort to push it again through this Congress. There may be, but I think that we would be able to stop it.

So what has happened as a result of the fact that those people who want open borders, those people who want to reward people for having come into the United States illegally? I mean, what do they do next, I guess is the question. Well, what they do next is to try to attain the same goal only in a different venue. Instead of coming through the Congress with a bill to create an amnesty for people who are living here illegally and rewarding people for violating our law, a new strategy has been hit upon.

Now, this strategy is a strategy that has been employed by other governments, but in this case specifically, the government of Mexico, and maybe I should say other coconspirators in the United States, people who are in league with them, who believe that we should abandon our borders and provide no barrier whatsoever to the movement of people, ideas, goods and services. But the Mexican Government has decided to use something to achieve the same goal that they could not achieve by coming through the Congress, and that is the use of a card, an ID. It is referred to as the matricula consular.

The matricula consular is an identification card that is given to nationals of any country by their own government. It is not unique to Mexico, and Mexico has actually been using them for a long, long, long time. What has changed in the last year and a half or so is that Mexico has decided to go big time into this particular kind of endeavor, that is to say, to distribute as many of these Mexican identification cards as possible to Mexican nationals living in the United States.

Now, again, my colleagues might say, well, so what? What has that got to do with amnesty? Well, here is the deal. Everyone realizes, everyone realizes, that there is only one purpose for this card. There is really only one reason why someone would need this card in the United States, and that is if you are here illegally. It is a passport for illegal aliens. We know there are between 13 and 20 million people living in this country illegally, the vast majority being Mexican nationals. So the Mexican Government has already distributed, by their own count, about 1.4 million of these ID cards in the United States.

Now, as I say, they have the right to do that. No one is suggesting that Mexico cannot give an ID card to their nationals living anywhere. But what is peculiar about this whole thing is that they then went to their consular offices throughout the United States and they said, your job, if you are a Mexican consular official, is to go out into the States for which you have some responsibility and begin to lobby those States and begin to lobby the cities, the counties, the police departments to get those entities to accept this card from anyone who presents it for a valid form of identification.

And this has been enormously successful. They have been successful in

getting police departments all over the country to say yes to this idea, to accept the matricula card. They have been successful in getting States to go along with it. California is in the process of actually passing legislation to force their cities and counties to accept this ID, an ID that is given by a foreign government to a foreign national living here illegally.

It immediately sets up a lot of questions, of course. The first one that would come to mind is how many immigration systems are we running in the United States? There is one that supposedly we have some responsibility for here and we say who can come and who can go. Now, we know that people ignore it quite routinely; but, nonetheless, we have a whole system of immigration law that we are supposed to be enforcing. Then there is another system of immigration law that is developing out there, in this case the States are employing it, and counties and police departments. They are doing it on their own.

These States and local agencies are saying, well, we do not care if you are here illegally, we are going to give you our passport. We are going to accept this card from you and say that that is your passport for anything you want to obtain in the United States, for anything that a legal resident may be able to obtain: a driver's license, certain other benefits. And, in fact, beyond that, they are asking for cities and counties to extend social service benefits to people who carry this card, and police departments are to adhere to this card.

Now, let me just tell you what that sets up. We arrested someone in Colorado not too long ago that had seven matricula consular cards with their face on it, but with seven different names. There is absolutely nothing, absolutely nothing, that we can rely on to suggest that these cards are in fact valid forms of ID. For $28 and a photocopy of your Mexican birth certificate, which of course can be created quite easily on a computer, you can go to the Mexican consulate, and it does not matter what you say your name is, it does not matter what you look like, it could be a person that looks completely anglo, it just does not matter, and you go in and say who you are, you present this birth certificate, and for $28 you will get yourself a new identity.

So it is not just people who are living in the United States illegally who are benefited by this; but it is also, of course, people who are felons. They may be legal United States residents, but they have a desire to change their identity. This is a great way to do it, and people are doing it in great numbers.

Now, this has started another set of discussions going, and specifically there are parts of the Federal Government that are interested in trying to address this issue, namely Homeland Defense. Because not too long ago, in California, a Federal office building in San Francisco began to accept the matricula consular as a valid form of ID for someone wanting to gain entrance to the Federal building.

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This was done as a result of the insistence of the gentlewoman from California (Ms. PELOSI), and there were a number of repercussions to this, I should say. In fact, there was such an outcry and enough people concerned that a Federal building in the United States was allowing entrance into that building by someone who presented an identification card that our government did not give them, a foreign government did.

So GSA, which is the government landlord, decided to put this whole thing on hold while they did a study of the whole concept of using the matricula for ID purposes, and a working group started. It was really housed originally in the Department of Homeland Security, and they were charged with the development of a draft proposal. They completed that not too long ago.

I happen to have been able to see a copy of that proposal. It was interesting in that it talked about the very dangerous repercussions to allowing Federal government agencies to accept the matricula consular as a form of identification because, of course, you cannot just regulate this to one country. You cannot just say you will only accept the matricula consular from Mexico. Right now, there are five other countries that are using this form of identification for their illegals living in the United States, one of them Poland.

This is something many countries are looking at. If a country is not looking at it, a lot of terrorists are looking at it, a lot of people who are figuring out a way to become part of the American mainstream, to get into American society. They are looking for a passport into American society, something that allows them to open bank accounts, get a driver's license, your library card, and anything else that a regular citizen of this country would be able to do.

So terrorists have a strong incentive to see how this thing unfolds. So at certain points in time we could certainly see governments of a lot of foreign countries providing these matricula consular to their nationals who in turn would use them in the United States because the law says the government accepts them, and the law in your particular city or State says you can do so.

Banks became very involved with this whole thing and started encouraging people to open accounts in their bank. Wells Fargo Bank and Citibank, Bank America, all of these banks saw a huge potential there, a niche market. They call them the unbanked. What they mean is the illegal alien living in the United States and looking to open an account. I do not blame the banks for seeing this as a true profit center. They are completely able to do that.

But what is interesting is not too long ago we passed something called the PATRIOT Act here, and we made it difficult, supposedly, for people to do things and supposedly difficult for banks to do things that would allow people to use bogus accounts to transfer money because we recognize that is something that terrorist organizations do. So the banks, even without any sort of legal imprimatur, if you will, to allow them to do this, went ahead and started accepting the matricula consular to open accounts.

Well, the Treasury Department last week promulgated rules in response to the PATRIOT Act. Now this is the great irony here. The PATRIOT Act demanded that the banks do something to make it more secure, to make the whole process more secure when people open an account so we really know who these people are and we can track the money flow if we have to. That is the part of the PATRIOT Act that banks were responding to.

So what did they do? The Treasury Department, recognizing that this was happening in the banking industry and that banks were making millions of dollars off of the ''unbanked'' community, the Treasury of the United States, in response to the PATRIOT Act, promulgated rules saying, in fact, that banks could accept the matricula consular. This is amazing, and it is I think something that we should all be concerned about. I think that certainly we are going to try to bring this to the attention of the House in a short time by filing a request for a resolution, a joint resolution to stop the implementation of these regulations.

Remember, Mr. Speaker, what we are talking about here is something that is being used to avoid the law. We passed a law in this Congress saying that the only way that you can come into this country is through a certain process and that if you do not do that you are in violation of the law. But how hypocritical is it to then say, however, if you get here, we are going to ignore the fact that you chose this particular route and we are going to give you access to every single amenity that this country has to offer, including the right to vote which is being pressed.

There are cities not too far from where we are tonight in Maryland and in Connecticut, along the East Coast especially, that call themselves sanctuary cities, and they allow people to vote in elections even if these people are not citizens of the United States. Even if they are not even legal aliens, they allow them to vote if they can show residency. If they can show them a utility bill, they can vote.

What the end result of all of this is, if we give people the ability to obtain all of the benefits of citizenship without ever being a citizen, then of course the whole concept of citizenship is meaningless. That is the end result of

things like this matricula consular activity or movement. We have to deal with it. We may not think that is important, and it becomes esoteric for some. You say matricula consular, and they do not care. It is a strange concept. We are just going to let somebody else deal with.

Luckily, some States are dealing with it: Colorado, Iowa, Tennessee, and Arizona have all introduced laws to abolish or to stop their State and/or any entity in their State from accepting the matricula consular. That is, of course, what I believe this government should do.

I hope that we will follow carefully this issue, and I hope that we will support either my bill or the bill of the gentleman from California (Mr. GALLEGLY). Either one of these two bills are designed to put a stop to this movement, at least at the Federal level, and I hope we can do that.

We endanger homeland security by allowing these cards to be accepted. We establish a precedent that says, even if you violate our laws, we will not do anything to you. You can come here and have all of the benefits. What a slap in the face that is to every other citizen who has done it the right way, everyone who has waited in line, paid the price both emotionally and monetarily, to get to the United States. What a slap in the face it is to them to say it does not matter. All you have to do is jump the line, come in and you will be rewarded the exact same way that someone who did it the right way is rewarded.

So this is an attack on our sovereignty. This is an attack on citizenship itself, and it certainly sets up a very dangerous situation in these very trying days.

We went recently to Code Orange, and that means that we are even more fearful of an attack by a terrorist organization. We are taking more steps to try to prevent it.

What is fascinating to me is everything we do is designed to stop someone from committing an act, committing a terrorist act once they get here, but very little is designed to stop them from getting here to begin with. Hence, our open border policy invites terrorists into the country, and then we scurry around trying to stop them. We say we are not going to defend our own borders. We suggest that in doing something like making a secure border that there would be repercussions, that there would be political and cultural repercussions to it. Other countries, Mexico in particular, would not like it if we put military on our border to defend against people coming in here illegally, so we do not do it.

What a bizarre concept that we will let other countries and vocal minorities inside our own country stop us from defending our own people. The one responsibility we have in this Nation, the one responsibility we have in this House is to protect the people and the property of the United States of America, and we shirk that responsibility because we are afraid of those political ramifications.

Well, there will be other ramifications to open borders: successful terrorist attacks. Those are ramifications of open borders. People will die in this country as a result of that kind of behavior on our part. Our almost guilt-driven sort of compulsion to move this concept called multi-culturalism to where it permeates every aspect of our culture and society, we must make sure that we do nothing, say nothing that would make anyone else upset with us, any other country or culture. We have to be so careful about that that we disregard our own security measures. That is what we are really trying to deal with here, is what it means to be an American and what it means to defend the concept of being an American.

There are so many aspects of this particular problem and issue. There are political and economic and social ramifications of open border policies, and I touched a little bit on what I consider to be the national security implications of open borders, but there are many others. One that I wanted to talk about a little tonight is the economic impact of massive immigration of low-skilled, low-wage people, both legal and illegal immigration.

For many years, the old adage dealt with the fact that massive immigration translated into economic opportunity and economic power and growth. It turns out, study after study is now showing us, like so many other things that we believed to be true at one time or another, that is a myth. Massive immigration of low-skilled, low-wage people does not in fact create wealth, except for a few.

Specifically, those people who actually hire low-skilled, low-wage people and pay them low wages, it does provide for them a certain degree of profit. But for the rest of us, for the taxpayers of the country, massive immigration of low-wage, low-skilled workers creates a cost, a cost for housing, a cost for roads, hospitals, infrastructure costs which come about as a result of population growth. There is absolutely no way that the number of people coming here and taking those jobs, a lot of which of course are paid for sort of under the table in cash and we do not see any sort of cash revenues, but even those who come here and file fake Social Security numbers or get a tax identification number from the Internal Revenue Service and pay some taxes end up being a significant cost to the United States.

First of all, they pay little or no income taxes.

Secondly, they consume a great deal in terms of infrastructure costs.

Now there is another aspect. You have to admit, it is kind of a clever strategy.

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There is a provision of our law called Earned Income Tax Credit that says if you do not make enough money during the course of a year, we will in turn give you extra dollars back to sort of make up for that low-wage kind of poverty cycle in which you may be stuck. This has already been identified by GAO and other studies as being one of the most fraud-ridden government programs. Billions of dollars every year are sent out to people who falsify documents in order to obtain their Earned Income Tax Credit.

It is not just American citizens who have figured this out and figured out a way to scam the taxpayers of the United States. It has become a big business for people who are here illegally.

Not too long ago, I had the opportunity to be observing the situation on the border in Arizona. We went through an area where there were a number of these things called pickup sites. Pickup sites are places in which illegal immigrants gather for the purpose of being picked up like these folks, the unfortunate folks in Victoria, Texas. They were picked up at a certain location by a big truck, in this case a semi, and driven into the interior of the United States.

These pickup sites, these places where all these folks gather, are all around the American Southwest. They become trash heaps after a while because, after a while, literally thousands of people will actually gather there. They throw everything around. They throw their trash and their water bottles and everything else out there.

We were walking through one of these pickup sites not too far from Douglas, Arizona. I looked down, and I saw this, actually this copy of an IRS tax return document enclosed, it says. I picked it up, because this was an odd thing to be there in the trash pile in a place where only illegal aliens gather.

This particular form is an Earned Income Tax Credit form that was filed by Mr. and Mrs. Delgado, Mr. Delgado who is here apparently illegally. As I say, this is a place, a site for people who are here illegally. Mr. Delgado claimed that he paid $64.12 in total Federal income tax, and he claimed $3,581 in Earned Income Tax Credit.

We know this is happening. We also know, as a matter of fact, that the IRS is so interested in making sure that even if you are here illegally that you benefit by your status that if you have used a fake Social Security number to get the job you have because you are here illegally and file an income tax form with a request for an Earned Income Tax Credit, the IRS will actually send you back a letter that says, your Social Security number is inaccurate. So, therefore, we have assigned you a tax identification number, and here is your check. Here is your Earned Income Tax Credit.

It is a great scam. As I say, millions of American citizens take advantage of the lax enforcement procedures attendant to Earned Income Tax Credit, and so do illegal aliens by the thousands,

maybe by the hundreds of thousands. We are really not sure, but it is certainly something that we know happens and happens a lot.

So when we talk about the costs of illegal immigration into the United States, we have to really and truly consider the fact that these costs are more than just the jobs that are taken.

Let us talk about the jobs issue for just a moment. We passed a bill in the House. It has gone to the Senate. It is going to come back to us in the form of a conference report, perhaps. There is a great deal of attention being paid to this particular piece of legislation. It started out and it was referred to as a tax cut bill. I still think of it as that, but we now talk about it as a jobs creation package, because the purpose of it is to stimulate the economy, to provide more dollars for employers to hire more people, to invest in their own plant and equipment. And I believe it will.

I certainly supported the legislation. It is interesting to me to note that various economists come in and tell us how many jobs will be created by the different levels of tax cuts that we propose. It is several hundred thousand for this one, 100 and some thousand jobs for this one. I always think to myself, there are between 13 and 20 million jobs we could create instantaneously for American citizens, and that is, of course, we could deport people who are living here illegally, which is exactly what we should do.

That is what should happen to someone who is here illegally. They should be deported. Anyone who hires someone who is here illegally should be fined. There is a law that says you cannot hire people who are here illegally. We all know that it goes on constantly, and we all know for the most part everybody sort of turns a blind eye to it.

It is fascinating that we spend an enormous amount of time, energy and resources in the discussion of exactly how many jobs we need to create by tax cuts, and again I am all for it, but we ignore the fact that there are millions of Americans who are looking for work and they are looking for work in places where the jobs have been taken by people who are here illegally.

I hear all the time about people who are here taking jobs that only they would take, that no other American would take, that no citizen would take. Maybe those jobs really exist. Maybe all of the American citizens out of work from whom I hear, by the way, are people who really would not go do the hard labor that is done by illegal immigrants.

I suggest that it is not true. I suggest, and there is plenty of anecdotal evidence to lead me to the conclusion that, in fact, Americans are ready, willing and quite able to take the jobs that are being held, low-skilled, low-wage worker jobs that are being held by illegals.

As evidence of that, I can remember an article that appeared in the Rocky Mountain News, oh, several months ago now. It was about a restaurant in Denver called the Luna Restaurant. It is a Mexican restaurant. I have had occasion to visit and had a great meal there a couple of times. The article in the paper, interestingly, was about an ad that had been placed by the restaurant in the paper, an ad for a waiter, a $3-an-hour waiter, the type of job that we are always told no American would do. The reason that that ad turned into a story in the paper is because the Luna Restaurant received 600 applicants in one day for that job. Maybe, it is possible, of course, that all 600 people who applied were illegal aliens and that every American citizen who looked at that ad said, no, that is below me. I'm not going to apply for that job.

It is really not within the realm of possibility. I really do not think it happened, Mr. Speaker. I really believe that a lot of the people who applied for that job were American citizens, lived here all their lives or came here legally and I think should have had the first shot at that job, frankly.

But let us say that there is that need out there for low-skilled, low-wage workers and that need cannot be supplied by American citizens, that we have all become too spoiled.

Let us go to the next level of unemployment that we face in this country. It is called the high-tech industry. We all know, especially Members from California recognize fully well the enormous change that has occurred in that industry, the shake-out in the industry, if you will, the number of firms that have gone under and the many, many thousands and thousands, in fact, millions of people who have been thrown out of work in that industry. Several live in my neighborhood. Thousands live in my district.

We run a program in this country, an immigration program referred to as H1B. H1B immigrants are different in many respects than other people we let into the country legally in that we say that these folks have skills that are so unique that we will give a certain amount, in this case 150,000 a year, of these particular H1B visas because these are given to people with certain skills, high-tech skills that we again, quote, can't find Americans that would qualify.

We have had this program operating for, oh, 5 or 6 years, I think, longer than that; and every year we have been bringing in 100-, 150,000 of these folks. They do not go home. They are supposed to go home when their job ends or after a certain period of time, but they do not go home. The INS tells us that they have absolutely no idea how many are still here but probably close to 90 percent of everybody who ever came. So we have well over 1 million people in the United States today who have come here with an H1B visa. That is a visa that allows them to displace an American worker.

Because even though the law is supposed to prevent someone from coming in here and replacing an American worker and paying this newcomer less money than the American would be paid, it happens all the time. Everybody knows it. Everybody knows that the employer will look for that individual, and these people have skills. They are competent for the most part. I am not saying they are not. So the employer gets somebody that they can get to work for less, and the American worker gets the unemployment line.

What is happening to the H1B visa? Are we going to abolish it? Not on your life. I certainly have a bill that would significantly reduce the numbers. I have no great hope that that bill will be heard or ever come to the floor. Why not, I guess I would ask? I do ask that question. Why not? What is there about our economy today, how many people are out there looking for a job who have all the skills necessary to be placed in that high-tech industry but, of course, their job has been taken by someone who is not an American citizen with an H1B visa? They are, some of them, here legally. Many of them have, of course, overstayed their visa and are now here illegally but they are still employed and still taking jobs away from American workers. Yet no one discusses that issue when we talk about jobs creation. I just wonder why.

I really know why. I just rhetorically wonder why we do not talk about it. There is an economic price to pay for massive immigration into the country.

I hope in the near future that we will get the courage in this body to actually engage in a debate, a full-blown debate on this concept of open borders. I would love to have a bill before us that says you have two choices, America. You either abolish the borders, take down the ports of entry, take back the Border Patrol and abandon it, let people do what libertarians in both this House and even in the administration want, and that is to have the free flow of goods and services and people without being impeded by borders.

That is one picture that people have. It is bizarre to me, but it is a picture that people have about what the world should look like in this century, a world without borders. I would very much like to have a debate as to whether or not that is the world we wish to live in, that is the future of this country, or a country that secures its borders by every means possible. Those are the two choices we really have. Because anything in between that leads us to where we are today. It leads us to a situation where you call something illegal, people can actually be arrested for violating the law, they seldom are, but they could be, but we all know that we do not really enforce the law that much, so we entice a lot of people to come into the United States illegally.

It is partially our fault. It is this government's fault that things like the incident in Victoria, Texas, occurred. Nineteen people die in the back of a trailer, one small child. Of course, hundreds of people are dead in the deserts

of America, in the Southwest. Hundreds of people die every year coming into this country. They do not do so quite as dramatically. We do not find them all in one place. We find bodies scattered throughout the Southwest and deserts, but this is what happens.

Also, on our side, people, of course, die in the defense of those borders.

□ 2000

Park rangers die. Border patrolmen die. This is a dangerous place to be. And yet we entice this movement of people by making it very or relatively easy to come into the country, yet still illegal. So people pay coyotes, people who bring them into the country; and they will pay them $1,000 or $1,500 to coming into the United States, and the coyotes will then oftentimes take advantage of the people. They are oftentimes robbed of their life's savings, the people coming across. The women are raped. They are thrown into the desert and they die.

It is a horrible situation on the border, and today we passed an amendment to the National Defense Authorization Act for Fiscal Year 2004 that allowed the President of the United States, in fact, encouraged the President of the United States to place troops on the border. We passed that bill here before and it has always failed over on the Senate side. We will see what happens this year. But I suggest that that is exactly what we have to have in order to prevent the kinds of things that we see on the border, both to protect our own people, border patrol, the Forest Service personnel, park rangers, to protect them and also to protect and stop people from coming into this country illegally and, in fact, protecting them from some very bad things that could happen to them. So it is a lax border policy that encourages people to come and events like Victoria, Texas, to occur.

The other thing is that the Nation itself has to make a decision as to exactly what it wants to do, what kind of a policy it wants to have, whether or not we truly, as I say, want borders or we do not. Because if we make the decision that we want borders, then there are a whole bunch of other decisions that follow after that. How are we going to defend them? Are we going to make them secure? What are we going to do to people who violate our borders by coming in illegally? These are all very difficult questions, but they are questions this Nation has to begin to deal with because there are major implications to massive immigration combined with this cult of multiculturalism that permeates our society. It is a very dangerous combination. Massive immigration and the cult of multiculturalism. The country needs to make that kind of decision. It has to engage in that kind of debate.

It would be great, I think, if a Presidential candidate would enter into that debate, would bring it to the focus and the attention of the Nation and make people, all people running for office at every level, talk about how they feel about this issue, whether or not secure borders mean anything, whether or not massive immigration is an acceptable activity today, and whether or not we are going to have porous borders especially in light of the terrorist threat that exists in this country.

Let them explain to their constituency why open borders is a good idea. Let them explain why massive immigration even just in terms of the numbers anymore is justified. Let us talk about what is the need of this country. Is it for millions of low-skilled, low-wage workers every year? Is that what we need? If it is, okay, that is the kind of immigration policy we establish. We say, here is how many people can come into the country. Here are the skills that we need, that our country needs to make us a better country, to make the people living here have a better quality of life. That is what a rational immigration policy is.

Or, as I say, abandon the border. Forget the whole charade that we call immigration and immigration law because when we operate the kind of system that we are operating now, all we do is put people in harm's way. All we do is put our border patrol people and the people trying to come across that border illegally into very dangerous situations; but in fact we do not accomplish any of the goals that should be established for immigration. So if we do not believe in it, if we think that this is not a legitimate goal for the United States, if it is not a legitimate function of the government to say who comes and who goes, then just abandon the border. Defend that to the population. Go out to their constituents and explain to them this is their concept of America, an America where borders are no longer relevant, they are anachronisms and new maps should be drawn up that erase the borders. Go ahead and explain that because that is exactly where we are headed. We are heading there in a de facto way, not in a legal sense; but that is exactly where we are heading.

And as I say, Mr. Speaker, I believe there are major implications to that, and they deserve to be debated. And maybe I am 180 degrees off center here. Maybe I am completely wrong about my concerns with regard to open borders. But at least does it not deserve an honest debate in a very public forum and at the highest levels? Is it not an appropriate thing for Presidential candidates to discuss?

I would love to see, really, a very thorough discussion among the candidates running for both the Democratic primary and I wish the President of the United States would discuss it to a greater extent than he does. I would like to know exactly where all of these candidates stand, and so would people of this country, so would Americans like to know where their representatives stand on this issue. Today it is not all that clear because we can sort of take a powder on this by saying we have got this immigration policy and we will let them do their job but knowing full well that it is a total abject failure and that it is the worst of all possible worlds. It is a place into which we have put people who are, as I say, in great danger, and yet they actually are defending something we do not believe to be of great value, and, that is, the border.

I went down to Ajo, Arizona, not too long ago to attend a funeral, a funeral for a gentleman by the name of Kris Eggle. Kris Eggle was 28 years old. He was a park ranger. He was killed not too far from Ajo. He was killed by two illegal aliens who had come into the United States as part of a drug deal that went bad in Mexico. They had killed four people there. They came across the border. They confronted Mr. Eggle and killed him. And I went there with Mr. Eggle's father, and we stood at the very spot where Kris was killed, and this had been the fourth time that the father had visited that particular location. And that was hard even for me, and I cannot imagine how difficult it was for Mr. Eggle. But he does it, he said, and he will continue to go there to draw attention to the plight of the border, to draw attention to the fact that we have people like his son down there in great jeopardy but truly without the intent of having them defend our borders or else we would do what is necessary to protect them and the border. But we are fearful of it because there are political obstacles, political and cultural as Governor Ridge told us. When we asked him why we did not put troops on the border, he said there are political and cultural problems there. That is true. There are no two ways about it. It is an honest statement, an honest reflection. But I would suggest that it is not a good enough reason for not defending our own borders.

There are other very significant implications to massive immigration combined with the cult of multiculturalism, and I can save them for another evening. But I do want to encourage all of us, Mr. Speaker, to become acquainted with this matricula consular, this card that is being handed out. I want us to become acquainted with it because it is something that could be used to achieve the goal that we were able to block here sometime ago, and that is creating amnesty for everybody in this country illegally. It could be used eventually essentially to destroy the whole concept of citizenship. That is what it is designed to do, and it will do if we allow it to. So although I know the issue is somewhat esoteric and people become a little glazed over when we talk about things like matricula consular, it is nonetheless important, important for us to understand, important for our constituents to understand. So, therefore, I will continue to raise that issue as long as it is necessary.

AMERICAN PARITY ACT

The SPEAKER pro tempore (Mr. OSE). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, I am grateful to 67 of my colleagues who have cosponsored my bill, the American Parity Act. They join me in supporting a funding boost for health care, education, and public safety by the same amount we have pledged to rebuild Iraq.

We are in the process now of beginning to spend down the $1.7 billion we have dedicated to the housing, the education, the health care, and the infrastructure of rebuilding Iraq; and yet here at home our schools are closing, athletic programs are shut down, summer school activities are being shut down, hospitals are not being able to provide the health care they need, projects for economic growth and economic investment in local communities are being delayed. Yet we are in the process of being about to rebuild Iraq.

Let me give an example. The other day I pulled an RFP from USAID. Two million dollars has already been designated for Iraq and another $70 million will be spent next year for desks, computers and supplies. Schools in Basra and Umm Qasr have already been given kits containing enough supplies for every student for the next year.

Yet here in America 59,000 kids will be eliminated from Head Start. Our teachers in our schools must buy books and supplies out of their own wages and then eventually maybe get a tax credit or be reimbursed later on. Up to $94 million is now today being spent to give 13 million Iraqis, half the population, universal health care and maternity care for 100 percent of the population in Iraq. Yet Medicaid will be cut; 14 million Americans will be denied access to health care in this country. Up to $680 million will now be spent over the next year and a half repairing six airports in Iraq, 100 hospitals, and 6,000 schools. Another $5 million is pledged to complete the only deep water port in Umm Qasr, Iraq. Yet we are cutting housing here in America. We are cutting our ability to invest in local infrastructure. In fact, the Corps of Engineers is facing a cut of 10 percent in its budget. Chicago will be directly affected in the projects there.

I will support the reconstruction in Iraq, as others in this Chamber have. Yet I will not support the deinvestment in America. When President Kennedy said we will bear any burden, pay any price, he did not mean it would come at the expense of the American Dream here at home. We can only be strong overseas as long as we come together and are strong here at home.

In the last 2 years, 2.5 million Americans have lost their jobs. Five million Americans have lost their health care. Nearly $1 trillion worth of corporate assets have been foreclosed on, and 2 million Americans have walked out of the middle class into poverty. Those are the economic facts that our country faces.

I do not think when the American people said that they were willing to do what they needed to do in Iraq that it would come at the expense of their unity, their dreams, and their security here at home. The children of Iraq should not be provided a safer, more secure and more generous future than the one we are welcoming our GIs home to. The GIs who fought there, the people here that support the reconstruction in Iraq, who are paying for the reconstruction of Iraq, deserve the type of education, health care, and housing and economic investment that we envision for Iraq's future.

□ 2015

I believe that we are on the wrong road when it comes to balancing our priorities. The American people have proven over the last 50 years that they will be a very generous people, willing to help others on their path to a more democratic and more healthy and more economically promising future. But they will not do it and pay that price when they think their dreams for their children, the security of their communities, are less than what they are providing for other people. Nor should they.

Again, I will support, as others will, the reconstruction of Iraq but not the deconstruction of America. So I am pleased I have the support of my colleagues, 67 of them, for the American Parity Act. I will continually come down to the floor to talk about what we are doing in Iraq as it compares to what we are doing here at home, because the American people I think expect us to not only have our commitment to Iraq but to fulfill our commitment to them here at home.

They cannot have 59,000 American children kicked out of Head Start, yet the children of Basra be supported by the American people for a full year of great education. We cannot have 14 million Americans kicked out without healthcare from Medicaid, yet have 13 million Iraqis get universal health care. Those are the not the choices we should be providing, and we should not have it be an either/or, and that is the choices the American people are facing today.

UNCOVERING A GOVERNMENT COVERUP

The SPEAKER pro tempore (Mr. OSE). Under a previous order of the House, the gentleman from Texas (Mr. SANDLIN) is recognized for 5 minutes.

Mr. SANDLIN. Mr. Speaker, as you know, we are here tonight to discuss a very chilling issue, the intentional destruction of evidence by a government agency and the subsequent stonewalling and coverup by the Federal Government.

Mr. Speaker, as has been discussed here previously, Members of the Texas State Legislature recently properly excused themselves from the floor of the Texas statehouse in order to break a quorum, a proper procedure provided for by the House rules and by the Constitution. This angered partisan Republican interests in Washington, and thereafter the Homeland Security Department, charged with fighting terrorism in this country, used Federal Government assets for political purposes, trying to track the plane of former Democratic Speaker of the House Pete Laney.

Embarrassingly, Secretary Tom Ridge and the Department of Homeland Security has now been forced to admit that they have an audiotape and a transcript of communications between Homeland Security and Texas law enforcement; and, despite that admission they were forced to make, the Department of Homeland Security has said they will not release the tape, thus taking part in this improper coverup.

This morning, further disturbing news came out of Austin, the State's capital. As I mentioned earlier, there is an admission of communication between Homeland Security and law enforcement in Texas. When the Department of Public Safety learned that inquiries were being made to obtain this information, they went into high gear, presumably at the direction of higher-ups, because, Mr. Speaker, as we were all shocked and dismayed to learn, the information held by the Department of Public Safety was intentionally destroyed, another part of the coverup.

Here is the quote from the DPS Commander of Special Crime Service, Tony Marshall, in an e-mail uncovered by the Fort Worth Star Telegram under an open records request. The DPS got caught with this e-mail. ''Any notes, correspondence, photos, et cetera, that were obtained pursuant to the absconded House of Representatives members should be destroyed immediately. No copies are to be kept.''

In an attempt to cover up this coverup, DPS exacerbated the problem with this statement. ''This is why DPS destroyed the records. We are prohibited under the Code of Federal Regulations, 28 CFR part 23, from keeping intelligence information that is not related to criminal conduct or activity,'' and it goes on.

There are only two problems with that statement. First, it simply is not true. Nothing in the regulations suggests, demands or requires the destruction of evidence. Secondly, it is improper and in violation of the law to collect this information in the first place.

You see, as with most cover-ups, they failed to tell you the whole story, and each new story makes the last story worse, because the truth is the very regulation that the DPS incorrectly cites as the reason to destroy this evidence states that there must be ''a reasonable suspicion that the individual is

engaged in criminal conduct or activity as a condition precedent to entering this information in the data bank in the first place.''

In other words, to even collect this information, there must be a reasonable allegation that a crime has been committed.

This data is for tracking criminals. The regulation specifically mentions crimes such as drug trafficking, loan sharking, trafficking in stolen property, gambling, extortion, smuggling, bribery, corruption.

Homeland Security and DPS, in one of their many stories, claimed that they were merely looking for a plane that they thought was missing or may have crashed. Now, of course that is not true either. But missing planes are located through the FAA and law enforcement, not by using criminal databases improperly in violation of the law.

Oh, what a tangled web we weave when first we practice to deceive.

Homeland Security, produce the tapes. Homeland Security, produce the transcripts. Department of Public Safety, do the same.

We respect DPS in Texas. They are a great agency. We know they were not doing it independently. They were doing it at the direction of others. They were following orders.

You know, Sharon Watkins blew the whistle on Enron. Arthur Andersen got caught shredding documents. Cover-ups just do not work.

Is this a serious problem, or is it just a third-rate burglary, as we learned about in our history lessons? Mr. Speaker, only time will tell.

DEMOCRATIC TEXAS LEGISLATORS TRUE HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LAMPSON) is recognized for 5 minutes.

Mr. LAMPSON. Mr. Speaker, I want to follow up with what the gentleman from Texas (Mr. SANDLIN) was talking about with the people that decided to stand up against such an egregious process, where they felt left out and had no recourse in Texas but to go away from the legislative process long enough to slow things down and let it cool off. Because none of us like to be excluded from the development of legislation.

There it affected many different kinds of legislation. It had to do with school finance reform. It had to do with what we have been talking about as redistricting. But the redistricting issue was just one small piece of it. It by itself was an egregious process, where people literally were locked out of the capital building in the State and not allowed to attend hearings.

We do not have a closed government in the United States of America, whether it is at the Federal level, whether it is in the State of Texas or any other State in this Nation. We have fought, we have died, we have shed blood to have a government that is open, where we are free, where we can do the kinds of things that we believe in.

So when legislators are pushed to the point where they have to take extraordinary measures to get their message across, they ought to be treated as heroes, the heroes that I certainly believe that they are.

I found it interesting the other night, Saturday night, the weekend of Armed Forces Day, a gentleman came up to me at an event where I was speaking about Armed Forces and the wonderful military people who have sacrificed themselves, their families and sometimes their lives fighting for the freedom of those of us in the United States to make sure that our government is free.

This gentleman came up and thanked me, or praised me, I guess, for not being a Member of the Texas legislature and not having gone off to Ardmore, Oklahoma. I said, ''David, I must strongly disagree with what you are saying.'' I said, ''I do so largely because I look at you and see the commitment that you made to the United States of America by being willing to put on that uniform and to go and potentially sacrifice your life for my freedoms, for what I believe in for my government.'' I said, ''But, you know, we can lose our government from within as well as from without, and we have to be vigilant in making sure that the process that we set up is one that all of the people of our country can be comfortable with, can trust, can believe in, and know that our interests are going to be addressed.''

So here we have recently sent men and women of this Nation off to fight in a country that is far, far away from us, and it was the same ideals that we are talking about that they went off to another area.

The Armed Forces answered our call, and some of them gave their lives to free the people of Iraq. So we went to war in Iraq to free a people from a government that abused its powers.

Iraqis were unable to question the actions of Saddam Hussein. So are we unable to question the actions of the leaders of the State of Texas. That is wrong. We were successful in Iraq with a war, but now the abuse of power is happening right here at home, by the most unlikely of agencies in the United States Government, the Department of Homeland Security.

Secretary Tom Ridge has stonewalled efforts by Members of Congress and the press to learn why the Department of Homeland Security used its equipment to track down former house Speaker Pete Laney's airplane to find the Texas Democrats who went to Oklahoma in opposition of an unfair, unconstitutional redistricting plan. That is repressive government. We sent our military to bring free and open government to another Nation. We need to do the same in the United States of America.

On the day that we called for an investigation of these happenings in Texas, the Department of Public Safety ordered documents regarding the misuse of Federal law enforcement for political purposes to be destroyed. Secretary Tom Ridge and the Texas DPS have failed to answer questions about their involvement and what happened exactly. They are trying to cover up an abuse of power.

Our Nation is facing a Code Orange level of terrorist alert. The resources of the Department of Homeland Security should be focused on that. Instead, they were ordered to skirt Federal statutes and had their manpower diverted for purely political purposes.

In this country, the people have a right to question the actions of their government, and the government has a responsibility to its citizens to be forthright and to give them an answer. This is an abuse of power of the most egregious kind.

It is time for Secretary Ridge to turn over the tapes, open up our government, tell the people in the United States of America what we are doing, and please do not pass on the divisiveness of the United States House of Representatives to the State of Texas.

EXTEND UNEMPLOYMENT BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, at the end of this month, millions of unemployed Americans will begin to lose their benefits under the Temporary Extended Unemployment Compensation program. In my State, the State of California, 150,000 people will run out of benefits and still not have a job on May 31. Congress needs to act to extend these benefits.

During a recession, unemployment insurance is one of the most efficient ways to help Americans and to keep the economy moving. Unemployment insurance puts cash in the hands of people who need it most, people who will spend the money on rent and groceries, rather than put it in the bank.

Unemployment insurance is cost-effective. Unlike the Republican budget, the Federal Unemployment Insurance Trust Fund currently has a surplus of more than $21 billion. That money can easily meet the needs of America's unemployed until we can get the economy moving again.

Instead, the President and the Republican Party have spent their time and energy trying to pass tax cuts for wealthy investors. This House has passed a tax cut totaling more than $500 billion. That is money that will not go to unemployed working families but, instead, to the President's wealthy political supporters. In fact, if we were to take all the money that the Republicans have set aside for their tax cut, we could create high-paying jobs for all

the 1.7 million Americans who have been laid off since the President's last economic plan in 2001.

Mr. Speaker, it is clear that the President and his economic team have managed our economy miserably. Now is not the time to trust the President again when he says he has a jobs plan. Let us act to extend unemployment insurance and make sure that American families can get back on their feet.

□ 2030

UNEMPLOYMENT IN AMERICA

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. CUMMINGS. Mr. Speaker, tonight the Congressional Black Caucus comes together to address this House because we are very concerned about many Americans who may be watching us at this very moment who do not have a job. As a matter of fact, Mr. Speaker, there are about 8.8 or 8.9 million of them. We come to talk about them because we want them, Mr. Speaker, to know that we care about them, and we care about what happens to their families.

Mr. Speaker, the temporary Federal unemployment benefits program that we passed not very long ago will expire on May 31. In just 10 days, Mr. Speaker, thousands of Americans will lose their unemployment benefits, and then approximately 80,000 more will lose their benefits weekly.

Since the beginning of President Bush's administration, our economy has lost over 2.5 million jobs. Mr. Speaker, that is a lot of jobs, 2.5 million. We must understand that these are not just numbers or some statistical phenomenon that I am talking about. These are real, everyday Americans who have lost their jobs and who, after next week, will not be able to feed their children, pay their bills, or provide for their most basic needs.

Mr. Speaker, I speak with my constituents every day, since my district is close to Washington and I commute to and from Baltimore on a daily basis. The constituents I represent are very, very worried, as are millions of Americans around the country.

Last Monday morning, any commuter driving near my Baltimore office would have noticed a long line at around 8 o'clock in the morning curling around the building called the Fifth Regiment Armory.

From the appearance of the line, one could have easily thought it was a group of music fans waiting in line to buy tickets to some concert. However, this was not the case at all. These individuals were in line to attend my Seventh District Job Fair that I host in Baltimore every year. They got up early to meet with 50 regional employers who have vacancies despite a rough economy.

I might add, Mr. Speaker, that normally we would have 120 employers, but the fact is that many employers said that they have no jobs to give.

One of the other things we were trying to get, Mr. Speaker, was employers who offered health insurance benefits. Many of the employers who had participated in the past said that they had to drop those benefits because of the economy, so we ended up with 50 employers.

Throughout the day, my job fair brought about 3,000 job seekers to meet with these employers. But compared with recent years, most of the people who attended the job fair this year were there because they had been laid off.

In the past, when I would interview people throughout the day in the job fair, I would often find that they were people who had a job who were just merely trying to get a better job, or they were people who had two jobs and they were trying to get a job that paid enough money so they would only have one job, or it was someone who was in a situation where they had no health benefits and they were trying to get a job with health benefits.

Ninety percent of the people that I interviewed said something to the effect that they got laid off from a job that they never, ever expected to be laid off from. They went on to say that they anticipated that they would be out of work for a few weeks, and many of them had been out of work for 5, 6, 7 months.

Mr. Speaker, I am sure that this scene that I witnessed and this testimony that I heard last week at my job fair is not unique. I would not be surprised if other job fairs had record attendance, as mine did, and that people were saying the same kinds of things.

My point, Mr. Speaker, is that when presented with opportunities, Americans want to work. When presented with the opportunity, they want to work. But until the economy turns around and people can find work, Mr. Speaker, unemployment benefits are all these Americans have to make ends meet.

So I ask Members to join us in calling upon every Member of this Congress to demand that they join us in passing H.R. 1652, the Unemployment Benefits Extension Act, that I have joined my colleague, the gentleman from New York (Mr. RANGEL), in cosponsoring.

This bill, H.R. 1652, would extend the Temporary Federal Unemployment Insurance Program by 6 months and would extend the number of additional weeks of Federal unemployment benefits from 13 weeks to 26 weeks.

This Congress must take action as soon as possible. The American people have a right to ask whether President Bush and our Republican colleagues in Congress will help the millions of Americans whose benefits will expire on May 31.

I might add a footnote, Mr. Speaker, that the new numbers will come out on June 6. At that time, we anticipate that the numbers will be even higher, somewhere in the area of 3 million jobs having been lost since President Bush became President.

The fact is that the Republican majority refused to include any extension of benefits in the tax bill that passed the House, and the majority has shown no signs that they will extend unemployment insurance before it expires. I should add, Mr. Speaker, that we are proposing to help American workers who are out of jobs through no fault of their own. They want to work. Extending unemployment benefits is a proven strategy for stimulating our economy.

The Republicans seem, Mr. Speaker, to have decided that, instead of helping unemployed workers, they should give the average millionaire nearly $100,000 in tax breaks. Something is simply wrong with that picture. I hope that we who are privileged to serve the people of America in this Congress of the United States of America will change that harsh and unproductive picture by passing H.R. 1652.

Lastly, Mr. Speaker, let me be very clear. Ending unemployment compensation does not provide incentive for Americans to find invisible jobs. Instead, extending unemployment compensation increases demand for goods and services and serves to create real jobs for those Americans who are able and willing to work.

So, Mr. Speaker, I am troubled when some people begin to compare unemployment compensation to an entitlement. Is it not the government's responsibility to provide these benefits when the economy is weak? Was the unemployment trust fund not established to accomplish this very purpose, to cushion the financial blow to average Americans during times of recession and joblessness? Mr. Speaker, the answer to both questions is a resounding yes.

It gives me great honor and great privilege, Mr. Speaker, to recognize my colleague, the gentlewoman from the great State of California (Ms. LEE), who has consistently synchronized her conscience with her conduct. She has consistently made it clear that she stands up for the people who cannot stand up for themselves, stands up for those who may be down and out, and stands up for those who think that they are not being heard. But tonight she stands up for so many people who are unemployed, who simply want to work.

Mr. Speaker, I yield to my friend, the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, first let me thank the gentleman from Maryland (Mr. CUMMINGS) and our Chair of the Congressional Black Caucus for his kind and humbling remarks, and for his leadership on each and every issue that we are faced with here in our great country. I just want to thank him again for his consistent leadership and also for ensuring that we have an opportunity to talk to America every now and then on the issues that are burning, and actually what the realities are of what we are doing here and what we are not doing. I thank the gentleman for allowing our caucus and other Members of Congress to really speak truth to power.

Mr. Speaker, first, let me just say how grave my concerns are about this Bush administration's economic policy and how it will truly devastate American families. We see a strategy at work in the Bush budget and in the tax cuts for the wealthy that are really at its center. And, yes, to me it looks like class warfare. That is what it looks like.

At the end of this month, we are going to see the devastating effects of the Bush economic strategy with the expiration of the unemployment insurance program. On the last day of this month, the Temporary Extended Unemployment Compensation Program will expire. It is going to expire, even though we Democrats have pushed for an extension of this program, and for an additional 13 weeks of benefits, for a total of 26 weeks of Federal extended unemployment benefits both to workers who have already exhausted their benefits and to workers who will be laid off in the coming months.

Without this extension, an estimated 80,000 unemployed workers nationwide each week, that is 80,000 each week, will lose their benefits. That is hard to imagine. The number is so high because we are at a record level of unemployment; and we are, to be quite frank, in a jobs depression. In the last 3 months, the economy has lost 500,000 jobs. Since the beginning of President Bush's Presidency, the economy has lost 2.5 million private sector jobs. That is quite an accomplishment.

In fact, unless President Bush somehow adds 2.5 million jobs in the next few months, he will be, I believe, the first President since they started actually keeping labor records who has failed to net a single job. In an economy that has historically been the strongest in the world, the President has not been able to net one job. That is pretty pitiful.

In my congressional district, we have over 75,000 unemployed workers. Beginning June 1, an estimated 1,400 workers will lose unemployment benefits each week. That is just in my congressional district, the 9th Congressional District of California. That number will be on top of the 10,000 workers in the region who have already lost their benefits. These are horrible numbers. Yet in spite of the fact that families are struggling to pay rent and buy food, the President and the Republicans have done nothing, and I mean nothing, to help these workers.

They claim to have an economic stimulus package, but for them, economic stimulus means tax cuts. If you have lots of capital gains, then of course you will like the Bush tax cuts. If you are one of the wealthiest Americans, then of course, yes, you, too, will like the Bush tax cuts.

Members cannot tell me that in a tax package of almost $550 billion there is not enough money to extend unemployment benefits to people who do not have dividends or capital gains, but are just trying to basically pay their rents, buy groceries, and take care of their families.

For the life of me, I am trying to figure out how does a tax cut benefit someone who is not working. Democrats tried to extend unemployment benefits to help American workers, but the Republican leadership explicitly rejected it. They needed to save money for their wealthy friends. They needed to save money for their friends who run corporations.

In a pool of $550 billion, they did not have the money for the people who are looking for work each and every day in a job market where three people on the average are applying for one single job vacancy, three people.

□ 2045

They did not have money for the real people of America. That is going to mean tens of thousands of workers across America are going to find it even more difficult just to survive. Do we not care about the economic security of those who are not rich?

In my district, 27,000 workers will lose unemployment benefits in the coming months. The Republicans do not even realize that unemployment insurance may actually be an economic stimulus. One study estimate that 13 additional weeks of benefits would provide an estimated $150 million of stimulus to the regional economy.

Stimulating the economy really, though, has not been a hallmark for Republicans except when it comes to adding to the wealth of those Americans who are already wealthy. The wealthy people of America do not need dividend cuts. But the unemployed of America desperately need some help, just a little help to ensure that they and their families can survive an economy that they really, quite frankly, are not responsible for.

Now what happens when people are desperate because they do not have a job, nor unemployment benefits? Children go hungry, foreclosures increase, more people become homeless, emergency rooms in our already stressed public hospitals systems become more taxed, domestic violence increases and, of course, as we are witnessing in California, there is an increase in the crime rate.

In closing, Mr. Speaker, let me call your attention to the unemployment rates as of this last April. The white population had an unemployment rate of about 6 percent. The Latino unemployment rate was about 7.5 percent. And the African-American unemployment rate is about 10.9, close to 11 percent. Now when you look at the massive budget cuts coupled with these high rates of unemployment and no job creation efforts on the horizon and no extension of unemployment benefits, what is the message, quite frankly, what is the message that you are sending to people of color? Do they matter? Or is it only the wealthy who are the ones that this administration is looking out for?

The facts speak for themselves, Mr. Speaker. So let us extend unemployment benefits for American workers and let us do it now. We must pass H.R. 1652, and I thank the gentleman from Maryland (Mr. CUMMINGS) for yielding and for allowing us this opportunity to wake up, America.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentlewoman for her statement. One of the things that you said that I found so very interesting when you were talking about all of these people losing their jobs, 2.7 million since President Bush has come in to office, but one of the things that is so interesting, too, is we are very concerned about health care. A lot of these jobs that folks are losing had health insurance benefits that accompanied them, and so then we got a lot of people who have no insurance.

Ms. LEE. I thank the gentleman for raising that. Because here in our country we have approximately 44 million uninsured, and that number is rising as a result of the 2.5, 2.7 million unemployed. Universal health care has got to be our goal in terms of any health care reform. But, in the meantime, what do we do to help those who are just struggling from day to day, who have no jobs, who have no unemployment insurance?

Once again, we go back to our public hospital system and see individuals, families sitting in waiting rooms for health care when, in fact, they have no place to go; and this is unconscionable in the wealthiest and most powerful country in the world.

Let me just finally say our country, rightfully so, is helping to develop a universal health care system for Iraq. What about a universal health care system for the people of America, Mr. Speaker?

I think that perhaps again during this crisis maybe those who have not supported universal health care will now understand that working men and women, middle-class individuals need universal health care as a result of this unfortunate situation which our government and this administration has placed them in.

Mr. CUMMINGS. One of the things that I notice in talking to our mayor

and talking to city officials, we have discovered that crime seems to go up when unemployment is high; and I guess it is kind of a logical correlation. You would hope it would not be, but it is. People when they are pushed against the wall, I think, are sometimes forced to do things they might not normally do because the basic instinct of people is to survive. Sadly, we have seen that in our city where people lose their jobs.

I guess this is another factor that comes to play there, a lot of people do not realize how significant a job is. A job helps you to do for your family. If someone has got a child or got a family, they want to be able to take care of their family when the little girl comes home and says, Mommy, we are going on a class trip, something as simple as that, and mommy has to say I cannot afford that $5 or that $7 for that class trip. All of that kind of stuff is painful.

I have not even gotten into things like food and shelter, things that are basic needs. But that has to wear on folks. And that is the toll that we, I guess, a lot of people do not think about it. We think about the economic side, but we do not think about the wear and tear on people.

Again, one of the things about having a job is that it gives people a sense of worth because they feel as if they are contributing. So we do not know how all of those factors come together to really be quite harmful not only to the individuals, but certainly if you got mommy and daddy in a bad mood trying to figure out how they will make ends meet, I am sure that does not make for a happy and consistently healthy household.

Ms. LEE. The gentleman raised a very good point. I think if you look around your country now and you look at the crime rates, and I, unfortunately, have to site California. The increase has been 28 percent, I think. There is a direct correlation between the unemployment rate and the escalation in the crime rate. Desperate people do desperate things.

As a professional psychiatric social worker, I have seen what depression and what the lack of self-worth and the lack of self-esteem prompt people to do, oftentimes unconsciously. Again, desperate people do desperate things.

Look at our young people. You just look at, first of all, low-income individuals who now as a result of not having any unemployment insurance, coupled with the cuts that are taking place in the school districts with afterschool programs, what is going to happen to these young kids who need afterschool programs as a result of having nowhere to go after school because their parents are out trying to find a job, trying to survive?

You layer all of these cuts on top of no money and on top of not having a job and little hope because there are very few job opportunities because we have not created the investment in our infrastructure and we have not created an investment in housing construction. We have not created an investment to increase job opportunities. So, once again, on top of all of these very dismal circumstances and reactions, then you have no hope. And what happens when people have no hope?

It is very hard for me and for many of us here. I know for those of us who are Democrats and those of us on the Congressional Black Caucus, it pushes us against the wall in terms of what do we do next.

How do we be a real advocate to create these jobs that people need because their life, their world is based around their self-esteem and their sense of dignity which involves a job, a good-paying job with benefits as central to their existence?

Mr. CUMMINGS. One of the recent reports that came out showed that when you increase those unemployment benefits, for every dollar you are bringing in $1.73 to stimulate the economy because that money is circulating. I found that very interesting, because I was just talking to people in my neighborhood.

When I visit the barber or visit the local grocery stores or small grocery stores in my neighborhood and talk to the shoe repair people, I kind of try to get a feel for how business is. And you would think that a lot of times people do not realize how when people are not working it effects almost everybody. There is such a chain. It is like a chain with a lot of links. If a person is not working, that means he may not be getting a haircut. That means the barber will not go and do certain things.

One of the things that was interesting, most of the people I have talked to over the last 3 or 4 months told me business was down. One of the things they say is that they can almost predict how much business they will have based upon the season of the year. It may be small restaurants or whatever, but they said that they have been seeing their charts are going down, down, down with regards to income, which means that they are having to lay off a lot of people.

Ms. LEE. For the life of me, I do not quite understand why the Republicans do not see the connection between having money in one's pocket, whether it is through a job or the unemployment insurance, how that does not effect an economic stimulus thrust. When you spend money, you stimulate the economy. Some of us may not believe in consumerism, but this is America and people buy stuff. I mean, they buy stuff all the time. If you do not have any money, you cannot buy anything; and buying stuff, whatever it is, leads to economic recovery.

So extending unemployment benefits allows people to have money in their pockets to not only buy food and take care of their families but also buy what they need to survive which, of course, in the private sector helps increase, well, it may not be a profit margin right now but just may keep businesses from going out of business, especially in our neighborhoods which really are dependent on that type of commerce.

Mr. CUMMINGS. One of the things that I always admired about the United States is how whenever there was tragedy in any part of the country, be it a tornado or be it problems, big fires or whatever, Americans have a sense that we want to rally to that part of our country that has a problem.

FEMA is out there whenever we have a disaster, and we want that to happen because we want all Americans to be strong. And here we have a situation where we have many Americans who are suffering.

It is one thing to have an idea of how you are going to make ends meet, but when you are sitting there and you are trying to figure out how are you going to pay these bills, I mean, to me that is a situation that is a state of emergency, too, because people still have to feed their children. They still have to buy tennis shoes. They still have to do the things that they do from day to day. So you would think that when this whole unemployment insurance law came into effect, it came into effect basically to try to deal with situations where people were out of work through no fault of their own.

As a matter of fact, if you look at the entire structure and the regulations that go with unemployment insurance, that is basically what it goes to, people who are out of work because of no fault of their own. So here we have this emergency situation, people who fit the category, it just so happens that we have an economy that is on the downstroke and not doing very well, and so with that same sense of rescue that FEMA does, I would hope that we would do the same thing.

But the fact is that time is running out. That is why we are here tonight, trying to say to this Congress that there are people who are suffering and who are in a state of emergency.

Ms. LEE. Mr. Speaker, we all recognize our national security needs in our country and rise to the occasion and appropriate money for all kinds of efforts to ensure national security. Well, I believe that the economic security of every man, woman and child is very critical to our overall national security. We must have a stable, healthy population in our country. Otherwise, our country becomes vulnerable from within. People become restless, people have no hope, as I said earlier, and it is very important that we provide just this minimal extension of unemployment insurance benefits just to let them know we care during these very volatile times.

Here we passed, well, not with my vote, but passed an $80 billion supplemental. Again, $80 billion is a lot of money. I think we should find $80 billion to help those who are unemployed. We found it a couple of months ago. I think we can find it now. I think it is very important to show the American

people that we care about their security here.

We must also remember these young women who, because of the Welfare to Work initiative and welfare reform which some of us agree with, some of us do not agree with, bottom line is time limits are running out. They are hopefully still working, but many are not because of the economy. Many were working two jobs and three jobs with no benefits.

□ 2100

Now their unemployment compensation is running out. Well, under the very awful welfare reform law, they run up against 5 years and they cannot even go back and apply for public assistance. So what do they do? What does a young woman do with two or three kids? They cannot even go back to try to get a safety net provided for a couple of months.

So this lack of attention to the American people, to our people, to women, to children, to average everyday working men and women, this lack of attention, I think, is very wrong and it is immoral. I believe that our country is beginning to see the real hypocrisy in many of our policies and how the Republicans can continue to look out for those who are privileged, yet for those who are struggling, cannot seem to really figure out what to do or will not do the right thing, when in fact Democrats consistently have put forward proposals to help lift everyone up.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentlewoman for joining me and joining our caucus, the Congressional Black Caucus, in addressing these issues.

So often I think people would ask the question: Why is it that members of the Congressional Black Caucus and other members of our party would take the time to speak up on these issues? I guess they would wonder, is there any hope? I believe that we have no choice.

When we see people who are down and out and going through problems, we have no choice but to speak up for them. The fact is that their tax dollars, the $80 billion that the gentlewoman talked about a few moments ago, the downpayment on the Iraq war, the same people that are unemployed today, those were their tax dollars that were used for the Iraq war. Their tax dollars are the same ones that our President says that he is going to rebuild all of the schools and educational facilities over there in Iraq. They are the same tax dollars. Their same tax dollars are providing universal health care in Iraq. Their same tax dollars that they paid are going to create an election system that will, I am sure, rival the one that we might have in this country.

They are merely saying, okay, if we can do all of that with our tax dollars, then why can I not be rescued when I am drowning because I do not have a job, through no fault of my own; and if I could work, I would work, and I would continuously and happily contribute to our economy and pay my taxes?

It is very painful when we think about it. So that is why we stand here and stand up for folks, because we know that there are many Americans who are saying, well, that makes sense, and they need a voice. So that is why we are here.

Ms. LEE. Mr. Speaker, I thank the gentleman for his very eloquent and very passionate statement, because I believe that Americans are beginning to see the hypocrisy and the discrepancy and the disparities in all of the Republican policies, and especially as it relates to tax policy.

The gentleman raised the fact that working people should have a right to some of the benefits in our country because they contribute immensely to the workings of government and to the society; yet they are the ones who never see those benefits. And if we are true to our country, true to our flag, true to our Constitution, then we need to work each and every day to ensure that liberty and justice for all prevails, because certainly, right now, there are millions of Americans out there who are wondering why they have been left out of this great American Dream.

Mr. CUMMINGS. The gentlewoman and I have been here so often when our colleagues cite all kinds of passages from the Bible and talk about how we are supposed to do for our brothers and sisters. It makes me wonder sometimes whether we are reading the same document when it comes to folks that are having the problems that they are having. This whole idea of unemployment benefits, even if we did not see it as a moral issue, if we put that aside and say I just want to deal with the economics, the economics would tell us that this is good for America.

So I thank the gentlewoman, and I thank other members of the Congressional Black Caucus who have submitted statements. We know that there are many Americans who are depending on us to continue to stand, and we will stand.

Ms. LEE. Mr. Speaker, I thank the gentleman; and once again I urge my colleagues tonight, if they happened to have seen this discussion, to support H.R. 1652. And if no one from the House is listening, let us hope that America is listening; and I am urging our country to wake up, get in touch with the United States Congress and say, let us pass H.R. 1652 on behalf of those very noble working men and women who deserve an extension of their unemployment insurance benefits.

Mr. CUMMINGS. As I close, Mr. Speaker, I would just say that I visited a school the other day, and I was thinking about the little children who were standing up and putting their little hands to their hearts. I would say probably a third of these children had parents who were unemployed. As I watched them put their little hands up to their little hearts, these little first graders, and say, ''I pledge allegiance to the flag of the United States of America,'' and go on and say, ''one Nation under God, indivisible,'' that every time we get to the ''one Nation'' piece, it makes me on the one hand feel very proud that this is one Nation, but on the other hand I feel sad that one Nation applies in certain instances; but when it comes to the weak in that Nation, suddenly we go our separate ways.

So we have a lot of people hurting, and the question is: What will we do to help them?

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the real ''shock and awe'' is what's happening to American workers.

The House of Representatives passed an extension of unemployment insurance benefits on January 27th for almost 3 million unemployed American workers. At that time I stated that the legislation is, albeit a small one, step in the right direction. However, I was supportive of a much stronger unemployment compensation extension, one that would have provided benefits to an additional 1 million American workers whose benefits have expired.

Specifically, on December 28th, 800,000 Americans lost their extended unemployment benefits. The Temporary Extended Unemployment Compensation (TEUC) program ended on December 28th because the President and House Republicans rejected Democratic pleas to extend the TEUC program with a compromise bill that the Senate had passed unanimously.

I was in full support of the House Democrats' comprehensive unemployment benefits bill introduced by Representative RANGEL. This bill would have reestablished and expanded the Federal extended unemployment benefits program. Most importantly, it would have guaranteed all jobless workers at least 26 weeks of extended benefits.

Unfortunately, the House GOP leadership refused to allow a vote on this Democratic bill. Instead, they only allowed members to vote on their bill, which provides an extension of only 13 weeks of extended unemployment benefits, with no extension to workers whose benefits have already expired.

Mr. Speaker, the Dallas-For Worth's 100 biggest employers shave eliminated about 41,000 jobs in the last two years, according to the Dallas Morning News' Annual Top 100 Employers ranking. The big employers have been hit especially hard because they include a high proportion of technology and telecom companies. More than a third of the region's total job losses at employers of all sizes were in technology, according to one estimate. And the long-suffering industry has shown no signs of rebounding .

To make matters worse, my District's biggest local employer, AMR Corp., parent company of American Airlines Inc., expects to shed thousands more jobs in coming months in an effort to keep the company solvent. The airline cut 3,000 jobs in the last year and this month began notifying 7,100 unionized workers that their jobs would be cut under the new concessionary contracts approved by the unions. Dallas-based Greyhound Lines Inc., the nation's largest operator of passenger buses and number 78 on this year's list, lost

about 200 employees. And the cuts may not be over.

In the last three years alone, of the 105,000 jobs lost in the Dallas area, 30,000 to 40,000 were probably in information technology. And it's taking longer than ever for those unemployed workers to find new jobs.

Such figures stand in sharp contrast to February 2001, when unemployment in Dallas was 4.2 percent. In unemployment figures released recently, the nation's jobless rate had reached 6 percent, matching December's eight-year high. More than 500,000 Americans have lost their jobs in the last three months alone.

Mr. Speaker, we will need to provide meaningful assistance to workers by passing health care relief for those who have lost their coverage along with their jobs. This Congress should stay here, extend unemployment benefits for at least an additional 13 weeks, and tackle the serious problem of how we are going to put America back to work. These are the kinds of real benefits that we owe American families.

Mr. BACA. Mr. Speaker, we have only three more days to provide an extension of unemployment benefits before millions of hard working men and women lose their only remaining way to put food on the table.

Congress created the temporary extension of unemployment benefits last year in response to continuing poor economic performance. The need has only increased since then!

The total job loss in the Bush economy has risen to a staggering 2.5 million private jobs since the President took office.

Instead of doling tax cuts to the wealthy and allowing corporations to steal their employee's pensions, our government should be granting another extension of unemployment benefits.

These are benefits that millions of Americans are depending on to pay for groceries, utilities, and rent.

The unemployment rate is now at 6 percent, and still climbing. In many states, like California, the rate is even higher. Yet, many of these hard working Americans have already exhausted their unemployment insurance (UI) benefits.

Americans are finding themselves without jobs!

Without health insurance!!

The only thing they are finding is a growing sense of frustration, despair, and fear of their government.

Mr. Speaker, I wish to express my disappointment at the administration's and the Republican Congress' economic policy, a policy that leaves the working class and our nation's minorities behind.

We need an extension of unemployment benefits now!

Mr. RUSH. Mr. Speaker, during the Republican Presidential Primaries of 1980, George Bush, Sr. referred to Ronald Reagan's proposed economic policy as ''voodoo economics.'' At the time, the economy was in the throws of a recession with a stubborn 5 to 6 percent unemployment rate; and millions of Americans were out of work. Predicated on the ludicrous dogma of ''supply side economics''—which has since been thoroughly discredited—President Reagan's job-creation policy entailed a massive tax cut overwhelmingly benefitting the wealthy; and the effect were to purportedly ''trickle down'' to the unemployed. During those 1980 primary debates, Mr. Bush, Sr. was correct in referring to President Reagan's policies as ''voodoo economics.'' His tax-cut was not successful in creating new jobs, but in creating massive budget deficits and an appalling gap between the rich and the poor.

Fast forward 23 years, and it seems that our current President should heed the advice of his father. For once again the Republicans have responded to our recession and high unemployment rate with voodoo economics. Once again, their magic elixir is an indefensible, obscene tax cut for millionaires that will provide negligible relief for the working class and will have minimal impact on job creation. Yet once again they strenuously assert that their plan will create jobs and bring relief to millions of working class Americans. If only this Congress would listen to the elder Mr. Bush.

The American economy has lost 2.7 million jobs since President Bush came to office. The current national unemployment rate is 6 percent. 8.8 million Americans are unemployed, 2 million of which have been unemployed for over 6 months. In just the last three months, 500,000 more Americans have lost their jobs. In my home state of Illinois, the unemployment rate is 6.6 percent and rising. We have lost at least 108,700 jobs since 2001, and over 422,000 Illinois citizens are out of work. My home city of Chicago has been hit particularly hard, and my congressional district on the south side of Chicago has been hit even harder.

These are not abstract numbers. While the country club millionaires who will benefit from the GOP tax cuts probably do not walk the streets of Chicago and witness the extreme poverty and hardship that come with high unemployment, I stand here on the floor of the House of Representatives, with my colleagues from the Congressional Black Caucus, to tell this Congress that the pain from unemployment is acute, and it is real.

The President and the Republican Congress seem to callously treat joblessness and economic hardship as some sort of unavoidable condition that can be exploited to justify their policies that blatantly benefit the wealthy. While this is a harsh indictment, what other conclusion can one come to? After all, the facts are quite clear: in the face of widespread financial misery whereby millions of Americans are out of work and millions more are teetering the brink of unemployment, the President and Congress do not choose to extend unemployment benefits to those Americans who actually feel the pain of unemployment; they do not choose to adequately equip states with the financial resources necessary to relieve the ancillary hardships that stem from unemployment (such a crime as lack of health insurance); they do not even choose to offer significant tax-relief to working-class and middle-income Americans who are the actual taxpayers losing their jobs.

No: President Bush and this Congress choose to address this issue by passing a $550 billion tax cut that overwhelmingly benefits the wealthy and the very people who are in the least need of help; and then try to call it a ''job creation bill.'' The sheer absurdity of this tax-cutting policy, on its face, suggests that the Republican-controlled Congress is disingenuous and is not truly serious about addressing the despair of joblessness. Instead, the President and this Congress have chosen to simply make the rich even richer; and simply cloak their policies under the guise of ''job creation'' (which is the latest marketing spin to come from the White House justifying its elitist tax cut.)

For how could one possibly believe and defend the assertion that the President's tax-cut package will actually create jobs? All of the evidence overwhelmingly points to the contrary. According to Congress's very own analysis the Republican tax-cut proposal—notwithstanding their vehement assertions otherwise—will not substantially kick-start the economy and crate jobs. Both the Congressional budget Office and the Joint Committee on Taxation has proffered detailed studies that show this tax-cut package will have virtually no sustainable effect on unemployment. If they choose not to believe their own analyses, Congress should listen to other credible sources: Federal Reserve Chairman, Alan Greenspan, Nobel Prize economists and financial titans such as Warren Buffet have said that the Republican tax-cut plan will do nothing to create new jobs. Thus, if one takes the Republicans at their word and believes that they are sincerely trying to help working class Americans with this tax cut package, then one must inevitably come to the conclusion that their choice of policy is borne from sheer myopia or even stupidity.

In reality, however, it's easy to see what's really going on: the Republican tax-cut plan is geared towards granting tax relief to wealthy Americans and has little if anything to do with job creation. As ten Noble Prize winning economists put it: ''Regardless of how one views the specifics of the Bush plan, there is wide agreement that its purpose is a permanent change in the tax structure and not the creation of jobs and growth in the near term.''

Thus, we here in Congress still have a lot of work to do. Along with the President, we have to enact real and sincere policies to create jobs and bring economic relief to millions of Americans. The citizens of Illinois—the citizens in my district on the south side of chicago—deserve a responsive President and Congress that are serious about addressing the hardships of unemployment. The legislative solutions are not elusive. This is not rocket science. Congress should extend benefits to millions of unemployed Americans who will soon see their benefits expire and be left with no income. We should authorize and appropriate substantial funds to the states who are financially strapped and can no longer deliver some basic services to their citizens.

We must enact targeted and responsible fiscal stimulus that will kick start sustainable economic growth unencumbered by future budget deficits. Not only are these policy prescriptions the compassionate thing to do, they are the smart, economically-sound thing to do.

I urge this Congress to act now. Working class men and women are depending on us.

Mr. CONYERS. Mr. Speaker, this evening I implore my fellow colleagues to invest in our American families. The issue of this country's economic growth and stability is before us yet again, and it appears as if we are about to worsen the situation.

We first failed our American families by approving a budget that neglects the economic and social needs of this country's citizens. This Congress also ensured that future generations will be burdened with debt as well.

We must not fail our American families again. The Members of Congress have the opportunity to extend unemployment benefits as such benefits expire on May 31, 2003. We must do so.

Our African American families have fared the worst during this economic crisis. The unemployment rate for African Americans is almost 11 percent at 10.9 percent. This rate is twice that of whites. In February, the number of unemployed African Americans totaled 1.7 million.

Every Member of Congress is witnessing firsthand the toll that this economy is taking on our constituents. Not one state is unaffected by this issue. The unemployment rate in Michigan is 6.7 percent. The unemployment rate in Detroit is 7.2 percent. This particular statistic has more than doubled since the last Administration. In November of 2000, the unemployment rate in Detroit was at 3.0 percent.

The budget resolution approved last month guarantees that this country has not yet seen the worst of these unemployment statistics for my District, our community, and the entire country as well.

The Administration claims that the approved budget will create 190,000 jobs. Is the Administration to be commended for creating 190,000 jobs? This number equates to less than the number of jobs that were lost during February and March of this year. During those months, 477,000 jobs were lost.

How are we to alleviate this economic downturn when we fail to provide employment opportunities for this country's citizens? How can we then fail to give those hard-working Americans, who have been laid off with no job prospects in sight, sustenance during these hard times.

While I have highlighted the unemployment statistics within the African American community and Michigan, let me make it clear—this is not a Black issue or a Michigan issue. This is an issue that affects all Americans and as such, we must extend the Temporary Emergency Unemployment Compensation Program (TEUC).

Ms. WATERS. Mr. Speaker, I rise tonight to address the rising unemployment in our country. Since President Bush took office, 2.7 million people—538,000 in the past three months—have lost their jobs. The unemployment rate now stands at 8.8 million people, 6 percent, the highest level in more than 10 years. California, which has bourne the brunt of the economic downturn has nearly 1.2 million people out of work. In my home city of Los Angeles, our unemployment rate is almost 6.5 percent.

The President and his party will say that it isn't their fault. They will say that this recession started well before the President was sworn into office. That clearly is not true, even if it were, the President's policies have only made the problem worse. By advocating tax cuts to solve every problem, President Bush has avoided taking any type of leadership role in solving this problem. The President, so far, has prescribed tax cuts as his sole cure for budget surpluses, budget deficits, the energy crisis, the war on terrorism and heaven knows what else. It is clear that this is part of a calculated strategy on the part of this Administration to starve domestic health and social programs to meet our peoples' needs: Programs like S-Chip, Head Start, public housing. Unfortunately, this list goes on and on.

Meanwhile, our nation's workers are out of work, out of options and out of benefits. Nationwide, an estimated 2.1 million workers—80,000 a week—will exhaust their regular unemployment benefits over the next five months. In California, 150,400 workers will exhaust their unemployment benefits by the end of May. But, while Congress can find the time to pass two multi-trillion tax cuts to benefit the wealthy, those who need it least, it can not find the time to extend unemployment benefits for workers whose benefits have been exhausted, those who need it most.

Extending unemployment benefits is the simplest and most effective way we can improve this economy. A recent study by Economy.com found that each dollar dedicated to extending unemployment benefits would boost the economy by $1.73. However, the same study found that the centerpiece of the GOP package, the dividend tax cut, would be the least efficient in stimulating the economy. Each dollar dedicated to reducing the taxation of dividends would boost the economy by only 9 cents.

But the President continues to advocate tax cuts. As if this failed policy will now miraculously work. It did not work in 2001 and it will not work in 2003. After passage of the largest tax cut in US history—$1.3 trillion—the economy lost 1.7 million jobs. The Republicans call their plan a ''jobs and economic growth'' bill. Yet, study after study—from the Congressional Budget Office to Economy.com to the editorial pages of the country's leading papers—show that it is anything but a job and growth plan. The bill the Republicans have drafted will have no stimulus effect on the economy, nor will it create jobs.

The Democrats, on the other hand, have developed a strong and balanced policy that will create over a million jobs this year alone. Importantly, the Democrats put money in the hands of the unemployed through the extension of unemployment benefits and tax breaks that help the middle class. It also provides desperately needed help to the States who are struggling under the worst financial crisis since the Great Depression. Under the Republicans' plan, mind you, economists expect the states' financial crisis to worsen.

About the only thing that this bill does is explode the deficit. Less than two years after President Clinton left office, we find ourselves in record deficits and an exploding national debt. President Bush promised when he came into office that the would pay off the debt, not too quickly though. He was concerned about the repercussions of paying off the debt too quickly.

So what did this president do? Well, he certainly didn't pay off the debt. Instead, he increased the national debt by $1.5 trillion over the next ten years. As if this was not bad enough, the debt subject to statutory limit, which at the beginning of this Administration was $5.7 trillion, is now projected to reach more than $12 trillion by the end of 2013, all thanks to Republican policies.

I close, Mr. Speaker, wondering when we will throw away these policies of yesteryear and start doing something of substance? People are hurting. They don't need cheerleading or Horatio Algers stories about how, if they work hard, they, too, can become millionaires. They need our help. When are we going to stop pretending that tax cuts are the cure all for the nation's problems and begin doing meaningful work that will put our constituents to work and not burden our children with trillions in debt. When will we return to funding health, education and social service programs to meet the needs of our people. I hope soon, Mr. Speaker.

RECESS

The SPEAKER pro tempore (Mr. COLE). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 8 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2345

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 11 o'clock and 45 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 108–122) on the resolution (H. Res. 247) providing for further consideration of the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2185, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 2003

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 108–123) on the resolution (H. Res. 248) providing for consideration of the bill (H.R. 2185) to extend the Temporary Extended Unemployment Compensation Act of 2002, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 108–124) on the resolution (H. Res. 249) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which

was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SKELTON) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.
Mr. HINCHEY, for 5 minutes, today.
Mr. LIPINSKI, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Mr. SHERMAN, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Mr. EMANUEL, for 5 minutes, today.
Mr. DOGGETT, for 5 minutes, today.
Mr. EDWARDS, for 5 minutes, today.
Mr. FROST, for 5 minutes, today.
Mr. GREEN of Texas, for 5 minutes, today.
Mr. RODRIGUEZ, for 5 minutes, today.
Mr. SANDLIN, for 5 minutes, today.
Mr. STRICKLAND, for 5 minutes, today.
Mr. BALLANCE, for 5 minutes, today.
Ms. CORRINE BROWN of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. NUSSLE, for 5 minutes, today.
Mr. CULBERSON, for 5 minutes, May 22.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material.)

Mr. LAMPSON, for 5 minutes, today.
Ms. WATSON, for 5 minutes, today.

ADJOURNMENT

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Thursday, May 22, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2320. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — [alpha]-Hydro-[omega]-Hydroxypoly (oxythylene) C8-C18-Alkyl Ether Citrates, Poly(oxyethylene) content is 4-12 moles Tolerance Exemption [OPP-2003-0023; FRL-7290-8] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2321. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bifenthrin; Pesticide Tolerance [OPP-2002-0358; FRL-7304-4] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2322. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Mefenpyr-Diethyl; Pesticide Tolerance [OPP-2003-0077; FRL-7297-9] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2323. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pyraflufen-ethyl; Pesticide Tolerance [OPP-2003-0110; FRL-7300-9] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2324. A letter from the Assistant Secretary for Health Affairs, Department of Defense, transmitting the Department's Evaluation of the Tricare Program FY 2003 Report to Congress, pursuant to 10 U.S.C. 1073 note; to the Committee on Armed Services.

2325. A letter from the Assistant Secretary for Health Affairs, Department of Defense, transmitting the Department's report entitled, ''Health Information Privacy Regulation''; to the Committee on Armed Services.

2326. A letter from the Chairman, Federal Trade Commission, transmitting the Twenty-Fifth Annual Report to Congress on the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. 1692m; to the Committee on Financial Services.

2327. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's FY 2002 Performance Report for the Prescription Drug User Fee Act of 1992, pursuant to 21 U.S.C. 379g note; to the Committee on Energy and Commerce.

2328. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Notice of Withdrawal of October 2, 2002, Attainment Date Extension, Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area [LA-58-1-7522; FRL-7487-4] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2329. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Florida: Revision to Jacksonville, Florida Ozone Air Quality Maintenance Plan [FL-88-200227(a); FRL-7486-7] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2330. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans: Revisions to the Alabama State Implementation Plan [AL-060-200320(a); FRL-7487-1] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2331. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; Prevention of Significant Deterioration (PSD); Idaho and Oregon [OR-03-004a and ID-03-001a; FRL-7487-2] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2332. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Minnesota: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7486-4] received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2333. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the activities of the Multinational Force and Observers (MFO) and certain financial information concerning U.S. Government participation in that organization, pursuant to 22 U.S.C. 3425; to the Committee on International Relations.

2334. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with South Africa [Transmittal No. DDTC 18-03], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

2335. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Germany [Transmittal No. DDTC 009-03], pursuant to 22 U.S.C. 2776(d) and 22 U.S.C. 2776(c); to the Committee on International Relations.

2336. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report required by Section 204 of the United States Macau Policy Act, covering the period from April 2, 2001, to April 1, 2002; to the Committee on International Relations.

2337. A letter from the Secretary to the Council, Council of the District of Columbia, transmitting a copy of Council Resolution 15-86, ''Sense of the Council on Maintaining Open Spaces for Demonstrations in the District of Columbia Emergency Resolution of 2003,'' pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

2338. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2339. A letter from the Administrator, General Services Administration, transmitting a report on agency programs undertaken in support of Public Law 103-172, the Federal Employees Clean Air Incentives Act; to the Committee on Government Reform.

2340. A letter from the General Counsel, Office of Management and Budget, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2341. A letter from the Director, Financial Services, Library of Congress, transmitting the United States Capitol Preservation Commission Annual Report for the fiscal years ended September 30, 2002; to the Committee on House Administration.

2342. A letter from the Clerk of the Court, United States Court of Appeals for the Second Circuit, transmitting the Court's summary order for USA v. Santiago, et al; to the Committee on the Judiciary.

2343. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Guidelines on Awarding Section 319 Grants to Indi an Tribes in FY 2003 — received April 28, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HUNTER: Committee on Armed Services. Supplemental report on H.R. 1588. A bill

to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes (Rept. 108–106, Pt. 2).

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 1170. A bill to protect children and their parents from being coerced into administering psychotropic medication in order to attend school, and for other purposes; with an amendment (Rept. 108–121). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 247. Resolution providing for further consideration of the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes (Rept. 108–122). Referred to the House Calendar.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 248. Resolution providing for consideration of the bill (H.R. 2185) to extend the Temporary Extended Unemployment Compensation Act of 2002 (Rept. 108–123). Referred to the House Calendar.

Mr. REYNOLDS: Committee on Rules. House Resolution 249. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–124). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. PORTMAN (for himself and Mr. CARDIN):

H.R. 2178. A bill to amend the Internal Revenue Code of 1986 to clarify the status of professional employer organizations and to promote and protect the interests of professional employer organizations, their customers, and workers; to the Committee on Ways and Means.

By Mr. BAKER (for himself, Mr. OXLEY, Mr. TIBERI, Mr. OSE, and Mrs. KELLY):

H.R. 2179. A bill to enhance the authority of the Securities and Exchange Commission to investigate, punish, and deter securities laws violations, and to improve its ability to return funds to defrauded investors, and for other purposes; to the Committee on Financial Services.

By Mr. MCGOVERN (for himself, Mr. OBERSTAR, Mr. LATOURETTE, Ms. DELAURO, Mr. BLUMENAUER, Mrs. TAUSCHER, Mr. WOLF, Ms. BERKLEY, Mr. SMITH of New Jersey, Mr. HONDA, Mr. CAPUANO, Mr. WELDON of Florida, Mr. MENENDEZ, Ms. CORRINE BROWN of Florida, Mr. BOEHLERT, Mr. LIPINSKI, Ms. MILLENDER-MCDONALD, Ms. NORTON, Mr. SHIMKUS, Mr. BISHOP of New York, Mr. PLATTS, Mr. PASCRELL, Mr. COSTELLO, Mr. FILNER, Mr. SABO, Mr. TAYLOR of Mississippi, Mr. LAMPSON, Mr. NADLER, Mr. HOEFFEL, Mr. CONYERS, Mr. FRANK of Massachusetts, Mr. STARK, Mr. WEXLER, Mr. DUNCAN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WEINER, Mr. SANDERS, Mr. MCDERMOTT, Mrs. JONES of Ohio, Mr. JOHNSON of Illinois, Mr. WAXMAN, Mr. DINGELL, Mr. MARKEY, Mr. GILCHREST, Mr. DICKS, Mr. FORD, Mr. EHLERS, Mr. CROWLEY, Mr. DAVIS of Florida, Mr. COLE, Mr. WATT, Mr. RODRIGUEZ, Mr. TOM DAVIS of Virginia, Mr. INSLEE, Mr. FATTAH, Mr. GRIJALVA, Mr. STEARNS, Mrs. NAPOLITANO, Mr. ETHERIDGE, Mr. KIRK, Mr. KILDEE, Mr. ANDREWS, Ms. MCCARTHY of Missouri, Mr. EVANS, Mr. CULBERSON, Mr. OLVER, Ms. MCCOLLUM, Mr. VAN HOLLEN, Ms. ROYBAL-ALLARD, Mr. HINCHEY, Mr. KUCINICH, Mr. DOYLE, Mr. GORDON, Mrs. BONO, Mrs. MALONEY, Mr. BROWN of Ohio, Mr. AKIN, Mr. FARR, Mr. DELAHUNT, Mr. HASTINGS of Florida, Mr. HOLT, Mr. RAMSTAD, Mr. LEVIN, Mr. COOPER, Mr. HOLDEN, Mr. ISRAEL, Mr. MEEHAN, Mr. CLAY, Mr. PAYNE, Mr. NEAL of Massachusetts, Mr. WYNN, Mr. ORTIZ, Mr. GONZALEZ, Mr. FROST, Mr. BELL, Mr. REYES, Mr. GREEN of Texas, Mr. DAVIS of Illinois, Mr. JACKSON of Illinois, Mr. RUSH, Ms. SCHAKOWSKY, Mr. EMANUEL, Mr. GUTIERREZ, Mr. LANTOS, Ms. LOFGREN, Ms. WOOLSEY, Mr. BACA, Mr. GEORGE MILLER of California, Mr. BERMAN, Mrs. DAVIS of California, Mrs. CAPPS, Mr. BECERRA, Ms. LEE, Ms. LINDA T. SANCHEZ of California, Mr. SCHIFF, Mr. SHERMAN, Ms. SOLIS, Ms. WATSON, Mr. SHAYS, and Mr. TIERNEY):

H.R. 2180. A bill to amend titles 23 and 49, United States Code, concerning length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. PENCE:

H.R. 2181. A bill to amend the Farm Security and Rural Investment Act of 2002 to enhance the ability of oilseed producers to use oilseed base acres for the production of fruits and vegetables; to the Committee on Agriculture.

By Mr. FERGUSON (for himself and Mr. HOYER):

H.R. 2182. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B for medically necessary dental procedures; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORBES:

H.R. 2183. A bill to establish a digital and wireless network technology program, and for other purposes; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOGGETT (for himself, Ms. BALDWIN, Mr. CROWLEY, Mr. DEFAZIO, Mr. DELAHUNT, Ms. DELAURO, Mr. FILNER, Mr. FROST, Mr. JEFFERSON, Mrs. JONES of Ohio, Mr. KENNEDY of Rhode Island, Mr. KLECZKA, Mr. KUCINICH, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. MARKEY, Mr. MATSUI, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. GEORGE MILLER of California, Mr. NEAL of Massachusetts, Mr. PALLONE, Ms. LORETTA SANCHEZ of California, Mr. SANDERS, Ms. SOLIS, Ms. SLAUGHTER, Mr. STARK, Mr. TIERNEY, and Mr. WAXMAN):

H.R. 2184. A bill to amend the Internal Revenue Code of 1986 to prevent corporations from exploiting tax treaties to evade taxation of United States income and to prevent manipulation of transfer prices by deflection of income to tax havens; to the Committee on Ways and Means.

By Ms. DUNN (for herself, Mr. ENGLISH, Mr. QUINN, Mr. SIMMONS, Mr. CASTLE, Mrs. BIGGERT, Mr. MURPHY, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mr. WALSH, Mr. GILLMOR, Mr. KING of New York, Mr. BOEHLERT, Mr. HASTINGS of Washington, Mr. LAHOOD, Mr. WELLER, and Mr. NETHERCUTT):

H.R. 2185. A bill to extend the Temporary Extended Unemployment Compensation Act of 2002; to the Committee on Ways and Means.

By Ms. BORDALLO (for herself and Mrs. CHRISTENSEN):

H.R. 2186. A bill to amend the Internal Revenue Code of 1986 to cover over to a possession of the United States whose income tax laws mirror such Code the refundable portions of the child tax credit and earned income tax credit, and for other purposes; to the Committee on Ways and Means.

By Mr. CARDIN (for himself, Mr. RANGEL, Mr. STARK, Mr. LEVIN, and Mr. MCDERMOTT):

H.R. 2187. A bill to update the supplemental security income program, and to increase incentives for working, saving, and pursuing an education; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 2188. A bill to provide for additional benefits under the Temporary Extended Unemployment Compensation Act of 2002, to extend the Federal unemployment benefits system, and for other purposes; to the Committee on Ways and Means.

By Mr. KANJORSKI:

H.R. 2189. A bill to amend the Solid Waste Disposal Act to assist homeowners with properties contaminated by leaking underground storage tanks in moving from such properties on a temporary or permanent basis by authorizing the Secretary of Housing and Urban Development to guarantee loans to such homeowners; to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCRERY:

H.R. 2190. A bill to expand the use of Capital Construction Funds to expand the United States maritime industry and promote construction by domestic shipbuilders; to the Committee on Ways and Means, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Virginia (for himself, Mr. HOYER, Mr. WOLF, Mr. WYNN, and Ms. NORTON):

H.R. 2191. A bill to amend section 8339(p) of title 5, United States Code, to clarify the method for computing certain annuities under the Civil Service Retirement System which are based on part-time service, and for other purposes; to the Committee on Government Reform.

By Mr. OBERSTAR:

H.R. 2192. A bill to authorize appropriations for the Surface Transportation Board, to enhance railroad competition, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OSE (for himself, Mr. TIERNEY, Mr. JANKLOW, Ms. HARMAN, Mr. LEWIS of California, and Mr. SCHROCK):

H.R. 2193. A bill to provide funding for port security enhancements, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period

to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY (for himself and Mr. OSBORNE):

H.R. 2194. A bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REGULA (for himself, Mr. SAM JOHNSON of Texas, and Mr. MATSUI):

H.R. 2195. A bill to provide for additional space and resources for national collections held by the Smithsonian Institution, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER:

H.R. 2196. A bill to improve the quality, availability, diversity, personal privacy, and innovation of health care in the United States; to the Committee on Ways and Means, and in addition to the Committees on Government Reform, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYAN of Ohio (for himself, Mr. ACEVEDO-VILA, Mr. BOUCHER, Mr. CAPUANO, Mrs. CHRISTENSEN, Mr. HINCHEY, Mr. HOLDEN, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. MCGOVERN, Mr. PAYNE, Mr. RUPPERSBERGER, Mr. SANDERS, Mr. STRICKLAND, and Mr. WAXMAN):

H.R. 2197. A bill to amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes; to the Committee on Armed Services, and in addition to the Committees on Energy and Commerce, Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCOTT of Georgia (for himself, Mr. LEWIS of Georgia, and Mr. WAMP):

H.R. 2198. A bill to provide funding for student loan repayment for public attorneys; to the Committee on Education and the Workforce.

By Mr. STARK:

H.R. 2199. A bill to amend title XVIII of the Social Security Act to provide for a voluntary program for limiting maximum out-of-pocket expenditures for beneficiaries under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of Colorado (for himself and Ms. SOLIS):

H.R. 2200. A bill to require Federal agencies to develop and implement policies and practices that promote environmental justice, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of Colorado:

H.R. 2201. A bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans; to the Committee on Resources, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida:

H.R. 2202. A bill to amend the Internal Revenue Code of 1986 to provide for the ratable inclusion of citrus canker tree payments over a period of 10 years, and for other purposes; to the Committee on Ways and Means.

By Mrs. MUSGRAVE (for herself, Mr. HALL, Mr. MCINTYRE, Mr. PETERSON of Minnesota, Mrs. JO ANN DAVIS of Virginia, and Mr. VITTER):

H.J. Res. 56. A joint resolution proposing an amendment to the Constitution of the United States relating to marriage; to the Committee on the Judiciary.

By Mr. CUMMINGS:

H. Con. Res. 187. Concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued by the United States Postal Service honoring Hattie McDaniel, and that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued; to the Committee on Government Reform.

By Mr. SHAW:

H. Con. Res. 188. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued by the United States Postal Service in honor of Marjory Stoneman Douglas, and that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued; to the Committee on Government Reform.

By Mr. UDALL of Colorado (for himself and Mr. EHLERS):

H. Con. Res. 189. Concurrent resolution celebrating the 50th anniversary of the International Geophysical Year (IGY) and supporting an International Geophysical Year-2 (IGY-2) in 2007-08; to the Committee on Science.

By Mr. ALLEN:

H. Res. 246. A resolution commemorating the 53rd anniversary of Senator Margaret Chase Smith's ''Declaration of Conscience'' speech in which she defended the American rights to free speech and dissent; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. MOLLOHAN and Mr. DOOLEY of California.

H.R. 20: Mr. SMITH of New Jersey.

H.R. 36: Ms. KILPATRICK.

H.R. 40: Mr. LEWIS of Georgia.

H.R. 52: Mr. NETHERCUTT and Ms. HART.

H.R. 105: Mr. BELL.

H.R. 111: Ms. MAJETTE, Mr. OLVER, and Mr. DAVIS of Alabama.

H.R. 218: Mr. NETHERCUTT and Mr. MCCOTTER.

H.R. 240: Mr. WEXLER.

H.R. 303: Mr. COOPER.

H.R. 391: Mr. TAYLOR of North Carolina.

H.R. 463: Mr. ETHERIDGE and Mr. MICHAUD.

H.R. 466: Mr. MATHESON.

H.R. 527: Mr. COSTELLO and Mr. LANTOS.

H.R. 580: Mr. NADLER.

H.R. 589: Mr. TAYLOR of Mississippi.

H.R. 591: Mrs. MILLER of Michigan.

H.R. 594: Mr. BECERRA, Mr. TOWNS, Mr. BLUNT, and Mr. DAVIS of Illinois.

H.R. 624: Ms. LINDA T. SANCHEZ of California.

H.R. 643: Mr. CAPUANO, Ms. NORTON, Mrs. CHRISTENSEN, Mr. SANDERS, Ms. JACKSON-LEE of Texas, Mr. GUTIERREZ, Mr. TOWNS, Mr. RUSH, Mr. PAYNE, Mr. DAVIS of Alabama, Mr. BROWN of Ohio, and Mr. SERRANO.

H.R. 660: Mr. LIPINSKI, Mr. DOOLITTLE, and Mr. HENSARLING.

H.R. 713: Mr. DUNCAN.

H.R. 745: Ms. VELAZQUEZ.

H.R. 781: Mr. FORD and Ms. DEGETTE.

H.R. 784: Mrs. JO ANN DAVIS of Virginia.

H.R. 785: Mr. HONDA, Mr. HOBSON, and Mr. MCINNIS.

H.R. 786: Mr. BISHOP of Georgia.

H.R. 792: Mr. MILLER of North Carolina and Mr. TOOMEY.

H.R. 809: Mr. LEVIN.

H.R. 811: Ms. MILLENDER-MCDONALD.

H.R. 817: Ms. BALDWIN and Ms. VELAZQUEZ.

H.R. 830: Mr. MCINTYRE.

H.R. 839: Mr. HAYES, Mr. MCNULTY, Mr. WALDEN of Oregon, Mr. CARDOZA, Mr. WALSH, Mr. GARRETT of New Jersey, Mr. DAVIS of Florida, Mr. MURPHY, Mr. YOUNG of Alaska, Mr. MEEHAN, Mr. HALL, Mr. THOMPSON of California, Mr. MEEK of Florida, Mr. PAUL, Mr. FROST, Mrs. BLACKBURN, Mr. TURNER of Texas, Mr. NETHERCUTT, Mr. BEREUTER, Ms. HARMAN, and Mr. HOLT.

H.R. 857: Mr. MARKEY and Ms. BALDWIN.

H.R. 876: Mr. LOBIONDO.

H.R. 879: Mr. HOEKSTRA.

H.R. 880: Mr. MARKEY.

H.R. 887: Mr. MATSUI.

H.R. 898: Mr. ALEXANDER, Mr. DAVIS of Tennessee, Mr. ISRAEL, Mr. MICHAUD, Mr. DELAHUNT, Mr. BERRY, Mr. HOLDEN, Mr. BOYD, Mr. HALL, and Mr. MCGOVERN.

H.R. 914: Mr. CALVERT, Ms. HARMAN, Mr. LUCAS of Oklahoma, and Mr. WELDON of Florida.

H.R. 919: Mr. HALL, Mr. CASE, and Ms. PELOSI.

H.R. 927: Mr. DEUTSCH, Mr. CANNON, Mr. WELDON of Florida, Mr. MURPHY, Mr. BISHOP of Utah, Mr. DAVIS of Florida.

H.R. 973: Mr. STARK.

H.R. 976: Mr. MEEKS of New York and Mr. BRADLEY of New Hampshire.

H.R. 1007: Mr. MEEKS of New York.

H.R. 1008: Mr. BOOZMAN.

H.R. 1038: Mr. RADANOVICH.

H.R. 1046: Mrs. CAPPS, Mr. SCOTT of Georgia, Ms. MILLENDER-MCDONALD, and Ms. VELAZQUEZ.

H.R. 1077: Mr. OWENS.

H.R. 1083: Mr. SANDERS, Ms. LINDA T. SANCHEZ of California, Mr. PETERSON of Minnesota, and Mr. SNYDER.

H.R. 1101: Mr. BELL.

H.R. 1102: Mrs. EMERSON.

H.R. 1103: Mr. CANNON.

H.R. 1110: Mr. BELL and Ms. JACKSON-LEE of Texas.

H.R. 1115: Mr. KELLER, Mr. PENCE, Mr. GALLEGLY, and Mr. FORBES.

H.R. 1117: Mr. VITTER.

H.R. 1118: Mr. BELL.

H.R. 1119: Mr. BARTLETT of Maryland.

H.R. 1122: Ms. WOOLSEY.

H.R. 1123: Mr. WOLF.

H.R. 1137: Mr. CHOCOLA.

H.R. 1157: Mr. KIND, Mr. BISHOP of New York, and Mr. PRICE of North Carolina.

H.R. 1162: Mr. BLUMENAUER.

H.R. 1168: Mr. GOODE.

H.R. 1170: Mr. MURPHY.

H.R. 1179: Mrs. EMERSON and Mr. BROWN of South Carolina.

H.R. 1191: Mr. WICKER.

H.R. 1196: : Mr. LARSEN of Washington and Mr. GONZALEZ.

H.R. 1209: Mr. DELAHUNT, Ms. ROYBAL-ALLARD, Mr. MORAN of Virginia, Mr. WAXMAN, Mr. ALLEN, Mr. BERMAN, and Mr. SNYDER.

H.R. 1225: Mr. HONDA.

H.R. 1229: Mr. WOLF.

H.R. 1243: Mr. MEEKS of New York and Mr. FROST.

H.R. 1244: Mr. SCOTT of Georgia.

H.R. 1251: Mr. CRENSHAW and Ms. ESHOO.

H.R. 1264: Mr. SCHIFF and Mr. SANDLIN.

H.R. 1267: Mr. EVANS, Mr. DAVIS of Alabama, and Ms. VELAZQUEZ.

H.R. 1276: Mr. DAVIS of Florida and Mr. YOUNG of Alaska.

H.R. 1279: Mr. DAVIS of Illinois and Mr. HOLT.

H.R. 1295: Mr. BACA, Mr. HINCHEY, Mr. LIPINSKI, Mr. ENGEL, Mr. HOLDEN, and Mr. REYES.

H.R. 1301: Mrs. DAVIS of California, Mr. MEEHAN, and Mr. HEFLEY.

H.R. 1305: Mr. SENSENBRENNER, Ms. BERKLEY, and Mr. MCCOTTER.

H.R. 1316: Mr. RAMSTAD and Mr. KILDEE.

H.R. 1334: Mr. MCNULTY.

H.R. 1336: Mr. HERGER, Mrs. JOHNSON of Connecticut, and Mr. FORBES.

H.R. 1340: Ms. ESHOO and Mr. WEXLER.

H.R. 1351: Mr. REYES, Mr. BECERRA, Ms. ROYBAL-ALLARD, Ms. SOLIS, Mr. RODRIGUEZ, Mrs. NAPOLITANO, Mr. GONZALEZ, and Mr. HINOJOSA.

H.R. 1385: Ms. CARSON of Indiana, Mr. GARRETT of New Jersey, Mr. RODRIGUEZ, Ms. MAJETTE, Mr. UDALL of New Mexico, Mr. MICHAUD, Mr. UDALL of Colorado, Ms. NORTON, Mr. GILCHREST, Mr. SHIMKUS, Mr. WYNN, Mr. TOOMEY, and Ms. HARMAN.

H.R. 1388: Mr. PETERSON of Minnesota.

H.R. 1428: Mr. ANDREWS, Mr. DAVIS of Alabama, and Mr. WILSON of South Carolina.

H.R. 1464: Mr. GREEN of Texas, Mr. RODRIGUEZ, and Mr. HINOJOSA.

H.R. 1470: Mr. MEEKS of New York.

H.R. 1472: Mr. ROTHMAN.

H.R. 1479: Ms. KILPATRICK and Mr. VITTER.

H.R. 1482: Mr. WAMP.

H.R. 1489: Mr. HAYES, Mrs. EMERSON, Ms. ROS-LEHTINEN, Mr. OTTER, Mr. SMITH of Michigan, Mr. JANKLOW, and Mr. COLE.

H.R. 1500: Mr. DICKS.

H.R. 1523: Mr. BURR.

H.R. 1530: Mr. MANZULLO, Mr. GORDON, Mr. TIBERI, and Mrs. EMERSON.

H.R. 1532: Mr. MORAN of Virginia, Ms. GINNY BROWN-WAITE of Florida, Mr. COSTELLO, Mr. HOBSON, Ms. HOOLEY of Oregon, Mr. RANGEL, Mr. MARKEY, Ms. DELAURO, and Mrs. LOWEY.

H.R. 1535: Mr. MATSUI and Mr. RAMSTAD.

H.R. 1553: Ms. MILLENDER-MCDONALD.

H.R. 1563: Mr. FARR, Ms. CARSON of Indiana, Mr. KUCINICH, Ms. WATSON, Mrs. CAPPS, and Mrs. MALONEY.

H.R. 1635: Mr. WEXLER.

H.R. 1652: Mr. EVANS, Ms. MILLENDER-MCDONALD, Mr. DAVIS of Illinois, and Ms. LORETTA SANCHEZ of California.

H.R. 1662: Mr. CALVERT and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 1689: Mr. DEUTSCH and Ms. LOFGREN.

H.R. 1700: Mr. MURPHY.

H.R. 1708: Mr. OXLEY.

H.R. 1723: Mr. MARKEY.

H.R. 1725: Mrs. JO ANN DAVIS of Virginia.

H.R. 1734: Mr. PICKERING and Mr. MEEKS of New York.

H.R. 1736: Ms. NORTON, Mr. NORWOOD, Mr. ENGEL, Mr. WYNN, Mr. DEUTSCH, and Mr. GREEN of Texas.

H.R. 1746: Mr. WALSH and Mr. MEEKS of New York.

H.R. 1755: Mr. FORBES and Mr. MCCOTTER.

H.R. 1767: Mr. SMITH of Michigan and Mr. TIBERI.

H.R. 1769: Mr. WHITFIELD, Mr. DEAL of Georgia, Mr. GERLACH, Mr. GOODLATTE, Mr. QUINN, Mr. TOM DAVIS of Virginia, Mr. KING of New York, and Mr. BALLENGER.

H.R. 1776: Mr. JANKLOW.

H.R. 1778: Mr. WALSH.

H.R. 1799: Mr. ENGEL.

H.R. 1819: Mr. ENGEL.

H.R. 1886: Mr. WYNN and Mr. SANDERS.

H.R. 1901: Mr. CUMMINGS.

H.R. 1910: Mr. LYNCH, Mr. LARSON of Connecticut, Mr. WELDON of Pennsylvania, Mr. BRADY of Pennsylvania, Mr. PETERSON of Minnesota, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mr. FORD, Mr. GONZALEZ, Mr. DELAHUNT, Mr. HOLDEN, Mr. JEFFERSON, Mr. PASCRELL, Mr. NEAL of Massachusetts, Mr. SMITH of Washington, Mr. SPRATT, Mr. SWEENEY, Mr. TAYLOR of Mississippi, and Mr. EMANUEL.

H.R. 1912: Mr. SOUDER.

H.R. 1914: Mr. FROST, Mr. CRANE, and Mr. SKELTON.

H.R. 1926: Mr. GOODE, Mr. MCINNIS, Mr. GUTKNECHT, Mr. SESSIONS, and Mr. FEENEY.

H.R. 1951: Mr. STRICKLAND and Mr. MILLER of Florida.

H.R. 1981: Mr. MCDERMOTT.

H.R. 1999: Mr. BERRY, Mr. LIPINSKI, Mr. LAMPSON, Mr. HOLT, and Ms. JACKSON-LEE of Texas.

H.R. 2023: Mrs. DAVIS of California.

H.R. 2028: Mrs. JOHNSON of Connecticut, Mrs. CAPITO, Mr. FLETCHER, Mrs. CUBIN, Mr. QUINN, and Mr. VITTER.

H.R. 2030: Mr. COSTELLO and Mr. RUPPERSBERGER.

H.R. 2038: Mr. SHERMAN, Ms. DEGETTE, Mr. OLVER, and Mr. LANTOS.

H.R. 2045: Mr. TURNER of Texas.

H.R. 2074: Mr. GONZALEZ.

H.R. 2075: Mr. WELDON of Florida, Mr. FEENEY, Mr. MILLER of Florida, and Ms. HARRIS.

H.R. 2077: Mr. PETERSON of Minnesota.

H.R. 2090: Ms. JACKSON-LEE of Texas, Mr. UDALL of Colorado, and Mr. ENGEL.

H.R. 2123: Mr. SCHIFF, Ms. ESHOO, Mr. COOPER, and Ms. SCHAKOWSKY.

H.R. 2125: Mr. DAVIS of Illinois, Mr. GRIJALVA, Ms. ESHOO, Mr. SANDERS, and Mr. ALLEN.

H.R. 2133: Mr. MATSUI.

H.R. 2157: Ms. BALDWIN, Mr. BALLANCE, Mr. BELL, Mr. BISHOP of Georgia, Mr. BRADY of Pennsylvania, Mrs. BONO, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mrs. CAPITO, Mrs. CAPPS, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLYBURN, Mr. CONYERS, Mr. CUMMINGS, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DINGELL, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Mr. HOEFFEL, Mr. HOLT, Mr. INSLEE, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Ms. KILPATRICK, Mr. KUCINICH, Ms. LEE, Ms. JACKSON-LEE of Texas, Mrs. MALONEY, Mr. MEEK of Florida, Mr. MEEKS of New York, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Ms. MILLENDER-MCDONALD, Mr. MCNULTY, Mrs. NAPOLITANO, Ms. NORTON, Mr. OWENS, Mr. KILDEE, Mr. LANTOS, Mr. RANGEL, Mr. RUSH, Mr. RYAN of Ohio, Ms. LINDA T. SANCHEZ of California, Ms. LORETTA SANCHEZ of California, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Mr. SCOTT of Georgia, Ms. SLAUGHTER, Ms. SOLIS, Mrs. TAUSCHER, Mr. THOMPSON of Mississippi, Mr. TOWNS, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, Mr. WEINER, Ms. WOOLSEY, and Mr. WYNN.

H.R. 2169: Mr. EVANS and Mr. ANDREWS.

H.R. 2172: Mr. EHLERS and Mr. QUINN.

H.R. 2176: Mr. RYAN of Ohio and Mr. WILSON of South Carolina.

H.J. Res. 4: Mr. SESSIONS, Mr. MCCRERY, Ms. GRANGER, Mr. WELDON of Florida, Mr. HENSARLING, and Mr. TAYLOR of Mississippi.

H.J. Res. 36: Mr. WU, Mr. INSLEE, Mr. GONZALEZ, and Mr. LEACH.

H. Con. Res. 39: Mr. MEEKS of New York.

H. Con. Res. 76: Mr. BISHOP of New York.

H. Con. Res. 78: Mr. WATT.

H. Con. Res. 93: Mr. OSE.

H. Con. Res. 111: Mr. DOGGETT.

H. Con. Res. 114: Ms. CARSON of Indiana and Ms. GRANGER.

H. Con. Res. 116: Mr. BARRETT of South Carolina.

H. Con. Res. 151: Mr. OWENS.

H. Con. Res. 155: Mr. HINOJOSA, Mr. LANTOS, and Mr. MOORE.

H. Con. Res. 164: Mr. BLUNT and Mr. DAVIS of Illinois.

H. Con. Res. 178: Ms. BERKLEY, Mr. SESSIONS, and Mrs. CAPPS.

H. Con. Res. 185: Mr. TOWNS, Mrs. MCCARTHY of New York, Mr. HINCHEY, Mr. MEEKS of New York, Mr. SERRANO, Mr. KING of New York, Mr. HOUGHTON, Mr. RANGEL, Mr. FOSSELLA, Mr. MCNULTY, Mr. BISHOP of New York, Mrs. MALONEY, Mr. MCHUGH, Mr. OWENS, Mr. QUINN, Mr. ISRAEL, Mr. WALSH, Mr. SWEENEY, Mr. ENGEL, Mrs. LOWEY, Ms. LOFGREN, Mr. NADLER, Ms. SLAUGHTER, Mr. REYNOLDS, Mrs. KELLY, Mr. CROWLEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WELDON of Pennsylvania, Mr. GORDON, Ms. JACKSON-LEE of Texas, Ms. WOOLSEY, Ms. NORTON, Mr. PALLONE, Mr. FOLEY, Ms. DELAURO, Mr. GREEN of Texas, Mr. BRADLEY of New Hampshire, Mr. FROST, Mr. LANGEVIN, Mr. WAMP, Mr. PAYNE, Ms. DUNN, Mr. SANDLIN, Mr. ROSS, Mr. ACEVEDO-VILA, Mr. LATOURETTE, Mrs. JOHNSON of Connecticut, Mr. MORAN of Virginia, and Mr. TERRY.

H. Res. 45: Mr. BILIRAKIS.

H. Res. 118: Mr. FRANK of Massachusetts.

H. Res. 136: Mr. BOSWELL.

H. Res. 167: Mr. KENNEDY of Rhode Island.

H. Res. 193: Mr. GALLEGLY and Ms. JACKSON-LEE of Texas.

H. Res. 199: Mr. GRIJALVA, Mr. CALVERT, Mr. LYNCH, Mr. ANDREWS, Ms. KAPTUR, and Mr. GARRETT of New Jersey.

H. Res. 218: Mr. HINOJOSA, Mr. DOYLE, and Mr. LEWIS of Georgia.

H. Res. 237: Mr. CUMMINGS, Ms. WATSON, Mr. OWENS, Mr. SCOTT of Virginia, Ms. MCCOLLUM, and Mr. GRIJALVA.

H. Res. 242: Mr. MCCOTTER.

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PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, MAY 21, 2003 *No. 76*

Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

The PRESIDING OFFICER. Today's prayer will be offered by Rabbi Arnold E. Resnicoff, U.S. Navy, Retired.

PRAYER

The guest Chaplain offered the following prayer:

O Lord who taught us all to love our neighbors as ourselves, we pause now, before this Senate session starts, to recall that on this day—in 1881—and in this city—Washington, DC—Clara Barton and a group of friends founded the American Red Cross.

To love our neighbor as ourselves . . . and then, to not sit idly by that neighbor's blood—the suffering that he or she endures—without doing what we can to ease the burden and the pain, has been the call to which so many Red Cross workers have responded since that day, throughout our land; and reaching out to those who serve in our Armed Forces overseas—throughout the world, as well.

Almighty God, we give our thanks for those who give their all, who do their best to comfort those in pain. But we pray as well to be inspired by their work, to understand we all can make a difference in our neighbors' lives, a difference in our Nation's strength, a difference in our world. Help us help one another do our part to build the world of peace, the time of joy, for which we pray. And may we say, Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 21, 2003.

To the Senate:

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

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader, the Senator from Colorado, is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, the Senate will resume debate on the national Defense authorization bill for fiscal year 2004. Under the previous order, there will be 20 minutes remaining for debate in relation to the first- and second-degree amendments which are pending to the Defense bill. Following that debate, the Senate will vote in relation to the Warner second-degree amendment regarding low-yield nuclear weapons. Senators should therefore expect the first rollcall vote to occur at approximately 10 o'clock this morning.

Following the disposition of these amendments, additional amendments are expected, and therefore rollcall votes are expected throughout the day. It is still hoped we will be able to complete action on this important legislation during today's session.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, we also hope to finish at least the amendments we know of that deal with things nuclear on this bill. Senator DORGAN is standing by, ready to offer the next amendment. He has indicated he would agree to a time limit. I believe the amendment has been shown to the other side to see if they would be willing to enter into a reasonable time limit. Last night, he suggested an hour and a half equally divided. We will submit that to staff and see if we can get something worked out and agree to that in a short time, hopefully before the vote takes place.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1050, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1050) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Reed amendment No. 751, to modify the scope of the prohibition on research and development of low-yield nuclear weapons.

Warner amendment No. 752 (to amendment No. 751), in the nature of a substitute.

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

The ACTING PRESIDENT pro tempore. Under the previous order, there are now 20 minutes equally divided for consideration of amendments Nos. 571 and 572, with the time controlled by the Senator from Virginia, Mr. WARNER, or his designee, and the Senator from Rhode Island, Mr. REED, or his designee.

Who seeks time?

The Senator from the great State of Colorado.

AMENDMENT NO. 752 TO AMENDMENT NO. 751

Mr. ALLARD. Mr. President, I rise in support of the Warner second-degree amendment to the Reed amendment in the form of a substitute.

The amendment would strike the Reed-Levin amendment, thereby retaining the repeal of the ban on research and development of low-yield nuclear weapons that is in the committee bill. The amendment would also require that the Department of Energy receive an authorization from the Congress for engineering development, and all subsequent phases of weapons development, before commencing with such activities. This amendment would make it absolutely clear that it is the prerogative of Congress to decide on the funding necessary for the administration to proceed with engineering development of a low-yield nuclear weapon, but it will not stop the military planners and weapon designers from considering and proposing such development.

Even after repealing the ban, as we did in the committee bill, the administration is still required to specifically request funding at each phase of research and development, as required by the National Defense Authorization Act for fiscal year 2003. With this amendment, the Department of Energy would be required to receive an authorization from Congress before commencing with the engineering development of low-yield nuclear weapons. Congress would have another opportunity to review such activities if they are requested by the administration.

This amendment provides for appropriate congressional review and oversight without incurring the disadvantages of an outright ban on some portions of research and development. Retaining a ban on development, acquisition, and deployment of low-yield nuclear weapons, would continue the ''chilling effect'' on exploration of certain advanced nuclear weapons concepts because few will choose to work on these concepts if their development or production is prohibited. Also, the Department of Defense will not spend precious research dollars on a weapon type they have little chance of fielding.

I urge support of this amendment. I believe this amendment addresses in a serious way the concerns expressed by some of my colleagues. This amendment would provide all the transparency required to ensure the administration can proceed with research and development of low-yield nuclear weapons, but not until Congress has an opportunity to review the request and affirmatively authorize engineering development activities.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor of my amendment.

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

Mr. REED. Mr. President, I rise in opposition to the Warner amendment and support of the underlying amendment which I proposed. I will make several points.

First, the notion of low-yield nuclear weapons is something of a misnomer. Indeed, it is misleading. These are nuclear weapons with horrific blasts and radiation effects. As I said yesterday, it is probably more accurate to say not low yield but small Apocalypses because, when we use nuclear weapons, we go beyond—except for one occasion in the history of warfare—what most military people contemplate as the appropriate use of force.

There is no military requirement for these weapons. Ambassador Brooks, the head of NNSA was asked, Is there a requirement? His answer succinctly and conclusively: No. Yet we are eliminating the ban on the research, development, production, and testing of these low-yield nuclear weapons.

Once again, low yield is a misnomer. These weapons are 5 kilotons or less. The weapons used against Japan in World War II were 14 to 21 kilotons with devastating effects. These small weapons are a third that size—still horrendous weapons.

Now, unless we act today, this approach will not simply result in research. It will result inevitably, inexorably, in the development and the testing and the fielding of these weapons. That is essentially what was said by Ambassador Brooks when he testified before the committee. His words: I have a bias in favor of something that is the minimum destruction. That means I have a bias in favor of that which might be usable.

This is not just research. This is creating weapons that will be used. His comments were echoed with respect particularly to the robust nuclear earth penetrator when Fred Celec, Deputy Assistant to the Secretary of Defense for Nuclear Matters, is quoted: If we can develop a system that can crack through the rock and detonate a hydrogen weapon, in his words, it will ultimately get fielded.

To field an atomic weapon it first must be tested. And we are walking down a path of testing and fielding that I think we will all regret.

There is a presumption that arms control does not matter, it does not work. Why did three nations—Belarus, Kazakhstan, and Ukraine—turn over voluntarily their nuclear weapon and join the nonproliferation regime? Why? Because there is an international norm that nuclear weapons should not be used. In fact, there should be efforts to eliminate their existence. These efforts and these norms are being undermined by the abolition of this ban.

This ban is more powerful than simply saying that the Congress will approve it. Why believe a scientist will say: I won't work on research unless I can produce and blow something up, an atomic weapon. If those are the scientists we have working, then perhaps we should look around for some other scientists. They, more than many other people, understand the power and the devastating effect of these weapons.

If we are really talking about research, let's make it research, not the back door to testing, development, and deployment. My amendment makes it much clearer that is what we are talking about. Indeed, my colleagues came to the floor yesterday and said this has nothing to do with deployment; it is all just science; we have to raise these issues; we have to ask these questions; intellectual curiosity and honesty must be respected in this realm as elsewhere.

Indeed, yesterday, Secretary Rumsfeld was asked: Are you pursuing nuclear weapons? His response: To pursue? I think it is a study. It is not to develop—his words—it is not to deploy, it is not to use, it is to study.

That is what the Reed amendment says. Essentially it says we will allow the scientists who operate in phase 1 through 2A of our well-defined process—research, development—but at the third phrase, that is where they stop. And similarly, if they are modifying a weapon rather than developing one from scratch, you would stop at phase 6.3. It is clearly defined.

The Warner amendment suggests we eliminate all of these prohibitions and we simply say: If you are going over here, come back to us and ask for permission. Functionally, in both amendments the Department of Energy and the Department of Defense would have to come to us. But there is a much more powerful, much more forceful, much more effective symbol if this moratorium is retained.

A few weeks ago, the Government of Pakistan offered to go nuclear free. They said: We would like to eliminate nuclear weapons on the subcontinent. The Indians would have to agree. That is a very interesting and very positive approach. The problem is, how do we reinforce that effort when we are not talking about going nuclear free? We are talking about new nuclear weapons, more sophisticated weapons that can be used. That will not encourage the Pakistanis to give up weapons, or the Indians. I think it will encourage their scientists to start looking at more and new technology.

We can make a difference if we maintain this ban by allowing what everyone says. That is all we want. We just

want the opportunity to research. The Reed amendment gives that opportunity.

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

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WARNER. What is the balance of time remaining?

The ACTING PRESIDENT pro tempore. The Senator from Virginia has 7 minutes and the Senator from Rhode Island has 3 minutes 10 seconds.

Mr. REED. Mr. President, I yield the ranking member, the Senator from Michigan, 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Senator from Rhode Island for this very important amendment. The bill before the Senate, unless this amendment passes or the Warner amendment passes, removes a 10-year prohibition we have had on research and development of new nuclear weapons that could lead to their production.

Yesterday, we were assured by speaker after speaker who supports removal of that prohibition that all that is intended is to remove the prohibition of research. So the amendment of Senator REED says, let us put that, then, clearly, into this bill; that what will be prohibited will be the development of new nuclear weapons.

What is very disturbing and why this amendment is so essential, the administration's position is reflected by the Deputy Assistant to the Secretary of Defense for Nuclear Energy, a man named Fred Celec, who says that if a hydrogen bomb can be successfully designed to survive a crash through hard rock, it will get fielded.

We have been assured by the opponents of the prohibition that, no, this is just research we are talking about. So the amendment of Senator REED puts that clearly into law that what we are now allowing is research; that the prohibition on development will stay. That is a very important, clear message to the rest of the world. We are telling North Korea we do not want you to go there. We may militarily act to prevent you from going to the development and the production of new nuclear weapons. So it is essential that this body send a clear statement that we still have a prohibition on development, although now research would be permitted.

I thank, also, Senator WARNER. Even though I think the Reed amendment is clearly better, and the message stronger that we are not removing the prohibition on development by allowing the research, Senator WARNER's second-degree amendment is also a constructive addition to this debate and would be surely better than not acting at all.

Mr. WARNER. Mr. President, I thank both colleagues, the Senator from Rhode Island and the Senator from Michigan. I pick up on the statement of my working partner here for so many years, the distinguished ranking member.

What the Senator from Virginia is endeavoring to do today is much like what the Senator from Michigan was endeavoring to do during the markup.

Let us quietly try to assist our colleagues as they formulate their decisions as to what position to take. The Senate spoke yesterday to the effect that we are not going to impose a ban on research. I say to the Senate, that was a wise decision. We should continue with the basic theme that we are not going to impose a ban on this Nation with respect to this system or any other system which may be needed for the defense of this Nation—hopefully, never in terms of weapons of mass destruction—but we cannot send a message to the world that we are just going to ignore the fact that they exist in many parts of the world. We have to maintain a credible inventory ourselves as a deterrent against others who might threaten us. So we should not have a ban. But what we should have is in place a law which is clearly understandable.

Now my colleagues go back and try to revise the existing law which has been in effect since 1994, which I say, with no disrespect to my colleagues. But when it was written—it is very convoluted, it is very difficult to understand because it says: ''LIMITATION—The Security of Energy may not conduct, or provide for the conduct of, research and development''—now they strike those words and put in their own—''which could lead to the production by the United States of a low-yield nuclear weapon. . . .''

Now, I have here a list of the seven steps followed in the life of a nuclear system. The first three—the concept study, the feasibility study, the design definition and cost study—have been authorized by the Senate as of yesterday in this amendment.

So we are at this juncture, as my colleague from Rhode Island points to his chart, where the balance of these steps toward the full implementation of a nuclear system should be put in control of whom? And I say it should be put in control of the Congress of the United States, with very clear language.

The statute, I say to my friend from Rhode Island, which you are trying to amend simply says, ''The Secretary . . . may not conduct, or provide for the conduct of'' this next step, full-scale engineering development.

Theoretically, if you are so distrustful of the executive branch—whether it is this one or a subsequent—they could jump over that—not easily but they could jump over and go on to the other steps. So the way this thing is written, it is very awkward. It says it only stops one step.

So I say that is a bad way to go about it. I say the better, wiser way, as Senator LEVIN said, is the constructive way, as he pointed out in my amendment. It simply says we are not going to point to one step, we are going to point to all the steps and say as follows: ''The Secretary of Energy may not commence the engineering development phase''—that is the one you are endeavoring to block by amending this old statute—but I go on: ''or any subsequent phase, of a low-yield nuclear weapon unless specifically authorized by Congress.''

That language is as clear as crystal. This language is very awkward to interpret and read. It has a flaw in it, that you could literally jump over the one step that you are blocking and proceed, in some manner, albeit not the best, but proceed to the other steps.

My amendment stops it. It is like a stop sign that says: We will not proceed as a nation until this body, the Congress of the United States, acts to authorize and appropriate the funds.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. REED. Mr. President, this is not an issue of drafting or clarity of language. The amendment I propose is very clear. It simply takes the existing ban and walks it back from phase 1, phase 2, and phase 2–A to phase 3. If this language was unclear, then the Department of Energy and the Department of Defense would have leaped over these barriers a long time ago because they would have ignored the first phase and gone to the third, fourth, and fifth phase.

This is about whether we are going to begin a new but different nuclear arms race. Last week, President Putin announced that Russia is beginning to develop new weapons. His words:

> I can inform you that at present the work to create new types of Russian weapons, weapons of the new generation, including those regarded by specialists as strategic weapons, is in the stage of practical implementation.

Most analysts interpret that as meaning they are going to develop low-yield nuclear weapons. With those remarks in the Russian Duma, initiating a reversal of history, of the beginning of a new arms race, the Duma applauded. I hope we do not applaud here today.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, how much time remains on our side?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes.

Mr. WARNER. Mr. President, in the spirit of fairness, I am going to read, once again, the Warner amendment, which says: ''The Secretary of Energy may not commence the engineering development phase''—that is the phase blocked—''or any subsequent phase, of a low-yield nuclear weapon unless specifically authorized by Congress.''

Where in the old statute is there any phrase as clear as the one in the Warner amendment which says: Mr. Secretary, you cannot do anything until you are authorized by the Congress?

Mr. REED. Will the Senator yield?

Mr. WARNER. Yes.

Mr. REED. I do not have the statute before me but the——

Mr. WARNER. Let me provide it to you.

Mr. REED. Let me tell you this: The original moratorium said: The Secretaries of Energy and Defense may not initiate research and development leading to the production of a low-yield nuclear weapon. We have replaced the term ''research and development'' with the development definition ''development engineering'' leading to the production of a nuclear weapon.

Essentially, what we have done, Mr. Chairman, is we have taken the existing ban, which the DOE says restricts their efforts to do any meaningful research, and simply said do the research.

Mr. WARNER. Mr. President, I reclaim my time.

The ACTING PRESIDENT pro tempore. The Senator from Virginia does have the floor.

Mr. WARNER. You cannot point to any language which speaks to this issue with clarity, so it can be understood the world over, as does the Warner amendment. It is as simple as that.

Mr. REED. Mr. Chairman, with all due respect, if I may have a moment, I think the world is pretty clear as to what is taking place. Your amendment strikes the ban. We used to have a prohibition against low-yield nuclear weapons development. Your amendment strikes that. In place, you say you have to come back to Congress.

Mr. WARNER. Mr. President, the Senate did that yesterday.

Mr. REED. My amendment leaves the ban in place.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. All time has expired.

The question is on agreeing to the second-degree amendment.

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

The ACTING PRESIDENT pro tempore. The yeas and nays have already been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—59

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

NAYS—38

Akaka	Dodd	Leahy
Baucus	Dorgan	Levin
Biden	Durbin	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carper	Inouye	Rockefeller
Chafee	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Corzine	Kennedy	Stabenow
Daschle	Kohl	Wyden
Dayton	Lautenberg	

NOT VOTING—3

Edwards	Graham (FL)	Kerry

The amendment (No. 752) was agreed to.

Mr. WARNER. Mr. 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.

Mr. WARNER. Mr. President, if I could address the Senate——

The ACTING PRESIDENT pro tempore. The question is on the underlying amendment.

Mr. WARNER. This amendment is in the nature of a substitute. However, in fairness to my colleagues, last night the distinguished ranking member and I made an agreement that we would vote once again because there could be colleagues who wish to now join in supporting this amendment.

The yeas and nays have been ordered. Am I correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. WARNER. Perhaps we could have a 10-minute vote.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, I ask unanimous consent that be the case.

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

Mr. REID. Mr. President, how long did the last vote take?

The ACTING PRESIDENT pro tempore. Thirty minutes.

Mr. REID. Mr. President, if we are going to finish the bill and if Members want to do it in the next day or two, I suggest that we should have some constraint on the time we are voting.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Rhode Island. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and 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 ''yea''.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—96

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

NOT VOTING—4

Edwards	Kerry	
Graham (FL)	Lieberman	

The amendment (No. 751) was agreed to.

Mr. WARNER. 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 Nevada.

Mr. REID. Mr. President, how long did that vote take?

The PRESIDING OFFICER. Thirty-two minutes.

Mr. REID. We have been approached in the minority on several occasions today asking when could we finish this bill. We are doing our best. We have people who want to offer amendments. We have wasted at least a half hour this morning on people not being here for votes. I personally believe, for Democrats and Republicans, if they are not here at a reasonable time, the vote should be cut off. This is not fair. We have Senator DORGAN who has waited all morning. Senator COLLINS is here.

I am not going to elaborate further, but this is not good for the Senate. I hope the majority leader will call these votes more quickly. We get the hue and cry to speed things up. If we waste all time during the votes, there is nothing to speed up.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I share the sentiments of my distinguished colleague, but I do observe that the delay on this vote, while it was the last vote on this side, there was a vote on the Democratic side not more than 5 minutes before. We share equally the burdens of the need to move forward on both sides of the aisle.

Mr. REID. I say to my most distinguished friend, I said in my statement, this applies to Democrats and Republicans.

Mr. WARNER. Right.

Mr. REID. Mr. President, the problem we have over here is we cannot say the vote is over. The Senator's side can call the votes. I hope they do it more quickly. If people start missing votes, then fewer people will have to wait around in the future.

Mr. WARNER. Mr. President, I will speak with my distinguished leader and ask if he will give me that unfortunate authority to exercise. If he does, I will exercise it appropriately.

Mr. REID. Mr. President, Senator DORGAN last night said he would agree to 45 minutes. We have a unanimous consent request the distinguished manager of the bill will offer. It is my understanding that prior to his starting, there is going to be 5 minutes for the Senator from Maine on an amendment that has been agreed to.

Mr. WARNER. I thank our distinguished leader. May I propound the UC first on the time? Then we will recognize the Senator from Maine for not to exceed 5 minutes. Then the distinguished Senator from North Dakota can proceed under the time agreement; is that agreeable?

Mr. REID. Of course.

Mr. WARNER. Mr. President, I ask unanimous consent that there be 90 minutes equally divided for the debate in relation to the Dorgan low-level yield amendment prior to a vote in relation to the amendment, and that no amendments be in order to that amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, my amendment is not a low-level yield amendment.

Mr. WARNER. The Senator is correct. There is a misstatement in the written text handed to the manager. I apologize. I read it. The Senator is correct. It is the other subject. I ask that the UC be amended accordingly to the statement by the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. TALENT. Reserving the right to object, since I understand this follows the Collins amendment and I think the Senator had mentioned 5 minutes for that, there are three of us here to speak on the amendment. We want to see if we can get another couple of minutes so we have some time to actually say something. If this UC is dependent on that, I raise that issue.

Mr. WARNER. I think it is a fair issue to be raised. I was unaware there were additional speakers. If the Senator will give me a moment.

Mr. REID. Mr. President, if I may interrupt my friend from Virginia, how much time?

Mr. WARNER. Ten minutes allocated? I ask the distinguished Senator from North Dakota. Mr. President, I will make a deal, I will yield 10 minutes of my time under this UC request to take that up. How about that?

Mr. REID. We accept that.

Mr. WARNER. I thank the Senator.

Mr. TALENT. I thank the chairman.

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

The Senator from Maine.

AMENDMENT NO. 757

Ms. COLLINS. Mr. President, on behalf of myself, Senator TALENT, Senator HUTCHISON, and Senator SNOWE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, Mr. TALENT, Mrs. HUTCHISON, and Ms. SNOWE, proposes an amendment numbered 757.

Ms. COLLINS. 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 amend title 10, United States Code, to restrict bundling of Department of Defense contract requirements that unreasonably disadvantages small businesses)

On page 222, between the matter following line 12 and line 13, insert the following:

SEC. 866. CONSOLIDATION OF CONTRACT REQUIREMENTS.

(a) AMENDMENT TO TITLE 10.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2381 the following new section:

"§ 2382. Consolidation of contract requirements: policy and restrictions

''(a) POLICY.—The Secretary of Defense shall require the Secretary of each military department, the head of each Defense Agency, and the head of each Department of Defense Field Activity to ensure that the decisions made by that official regarding consolidation of contract requirements of the department, agency, or field activity, as the case may be, are made with a view to providing small business concerns with appropriate opportunities to participate in Department of Defense procurements as prime contractors and appropriate opportunities to participate in such procurements as subcontractors.

''(b) LIMITATION ON USE OF ACQUISITION STRATEGIES INVOLVING CONSOLIDATION.—(1) An official of a military department, Defense Agency, or Department of Defense Field Activity may not execute an acquisition strategy that includes a consolidation of contract requirements of the military department, agency, or activity with a total value in excess of $5,000,000, unless the senior procurement executive concerned first—

''(A) conducts market research;

''(B) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

''(C) determines that the consolidation is necessary and justified.

''(2) A senior procurement executive may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for the purposes of paragraph (1) if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under subparagraph (B) of that paragraph. However, savings in administrative or personnel costs alone do not constitute, for such purposes, a sufficient justification for a consolidation of contract requirements in a procurement unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

''(3) Benefits considered for the purposes of paragraphs (1) and (2) may include cost and, regardless of whether quantifiable in dollar amounts—

''(A) quality;

''(B) acquisition cycle;

''(C) terms and conditions; and

''(D) any other benefit.

''(c) DEFINITIONS.—In this section:

''(1) The terms 'consolidation of contract requirements' and 'consolidation', with respect to contract requirements of a military department, Defense Agency, or Department of Defense Field Activity, mean a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy two or more requirements of that department, agency, or activity for goods or services that have previously been provided to, or performed for, that department, agency, or activity under two or more separate contracts smaller in cost than the total cost of the contract for which the offers are solicited.

''(2) The term ''multiple award contract'' means—

''(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of this title;

''(B) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 2304a through 2304d of this title or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

''(C) any other indeterminate delivery, indeterminate quantity contract that is entered into by the head of a Federal agency with two or more sources pursuant to the same solicitation.

''(3) The term 'senior procurement executive concerned' means—

''(A) with respect to a military department, the official designated under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) as the senior procurement executive for the military department; or

''(B) with respect to a Defense Agency or a Department of Defense Field Activity, the official so designated for the Department of Defense.

''(4) The term 'small business concern' means a business concern that is determined by the Administrator of the Small Business Administration to be a small-business concern by application of the standards prescribed under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2381 the following new item:

''2382. Consolidation of contract requirements: policy and restrictions.''.

(b) DATA REVIEW.—(1) The Secretary of Defense shall revise the data collection systems of the Department of Defense to ensure that such systems are capable of identifying each procurement that involves a consolidation of contract requirements within the department with a total value in excess of $5,000,000.

(2) The Secretary shall ensure that appropriate officials of the Department of Defense periodically review the information collected pursuant to paragraph (1) in cooperation with the Small Business Administration—

(A) to determine the extent of the consolidation of contract requirements in the Department of Defense; and

(B) to assess the impact of the consolidation of contract requirements on the availability of opportunities for small business concerns to participate in Department of Defense procurements, both as prime contractors and as subcontractors.

(3) In this subsection:

(A) The term ''consolidation of contract requirements'' has the meaning given that term in section 2382(c)(1) of title 10, United States Code, as added by subsection (a).

(B) The term ''small business concern'' means a business concern that is determined by the Administrator of the Small Business Administration to be a small-business concern by application of the standards prescribed under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(c) APPLICABILITY.—This section applies only with respect to contracts entered into with funds authorized to be appropriated by this Act.

Ms. COLLINS. Mr. President, I ask unanimous consent that the 10 minutes we have been allocated be allocated among the three of us as follows: 3 minutes for the Senator from Maine, 3 minutes for the Senator from Missouri, 3 minutes for the Senator from Texas, and 1 final minute for the Senator from Maine.

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

Ms. COLLINS. I thank the Chair.

Mr. President, our amendment addresses an increasing practice in the Department of Defense to bundle contracts to award a larger contract. The problem with that is it disadvantages smaller companies that cannot bid on a giant contract but would be perfectly able to responsibly perform the work if the contract were broken up into smaller segments.

Contract bundling has become increasingly prevalent in recent years. In fact, it has reached record levels. Contract bundling is up by 19 percent since 1992, and the result of this is the shutout of many small firms from doing business with the Federal Government.

Our amendment would require that the Department of Defense perform rigorous analysis on bundled contracts in excess of $5 million. It would require that alternatives to bundling be considered and that a determination be made that the benefits of bundling the contracts substantially exceed the benefits of identified alternatives.

We have focused on DOD because the Small Business Administration indicates that ''bundling is rooted at the Department of Defense.''

The Collins-Talent-Hutchison-Snowe amendment is necessary because bundling has had an unfortunate effect on the U.S. Government contractor base. According to the Office of Federal Procurement Policy Administrator Angela Styles:

This issue is a dramatically reduced contractor base, and the mounting lost opportunity cost of choosing among fewer firms with fewer ideas and innovations to deliver products and services at lower prices.

She noted:

The negative effects of contract bundling over the past 10 years cannot be overestimated. . . . Not only are there fewer small businesses receiving Federal contracts, but the Federal Government is suffering from a smaller supplier base . . . when small businesses are excluded from Federal opportunities through contract bundling, our agencies, small businesses, and taxpayers lose.

That is exactly the case. When contracts are bundled so that only a few large firms can bid on them, the United States does not get as good a deal. The United States Government is not taking advantage of the many innovative small firms that are capable of doing the work for the Federal Government if the contract was awarded in smaller amounts.

This is a matter of making sure we have a healthy industrial base, that we have as many firms competing as vigorously as possible to do work for the Federal Government, and of making sure our smaller companies have a fair shot at competing for Federal contracts. This amendment will make a real difference for our small businesses.

I yield to the Senator from Missouri.

Mr. TALENT. I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank Senators COLLINS, TALENT, and SNOWE for bringing up this subject in the Defense bill. I have small business advisory committees in my State and just last week hosted an African American leadership summit. The major complaint these small businesses have is bundling. They would like to have an opportunity to bid, but they are frozen out by this process.

I vowed I would try to help open the door because it is good for small business. Small business is the economic engine of America. That is where the jobs are created and it will be good for taxpayers, as the Senator from Maine has said, to have competition, to have more people working to get into Federal contracting, bringing something different to the table. So this is a very important part of our strong national defense, getting the best deal for taxpayers, but it is also very important that we help our small businesses have access to the biggest contracts that are made in America. Government contracts are the biggest and small businesses have something to offer. Where they are proven and where the 8A program has come in to help our minority-owned businesses get those opportunities, getting the backup they need to be reliable minority contractors, that is what we need in this country.

We need to open that door. The 8A program does open the door and it creates that level playing field that allows them then the platform to get some of the larger contracts.

I appreciate the Senators working with all of us to try to bring about this result. I vowed I would do it. I think if we can do it in the Department of Defense, later we can then use that as a model for all of the Federal agencies in our country. We will do a better job for the taxpayers and we will help the small businesses of this country that are creating the jobs. We want more jobs in our economy. That is the bottom line. It is a win for everyone.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I too thank the Senator from Maine for her advocacy on this issue, not just this year but in past years. I also thank our distinguished chairman and ranking member because I understand they have cleared this amendment and will accept it.

There is not anything more important we can do for small business in a procurement issue than what we are doing with this amendment. I do not think there is very much more we can do that is important to taxpayers and important to quality in defense procurement than this issue.

Bundling is choking small business. It is hurting the taxpayer. It is hurting quality. This amendment is a major step forward to limiting it to cases where it is truly appropriate.

From 1992 through 2001, 44.5 percent of DOD procurement dollars were in bundled contracts and therefore essentially off limits to small business competition. So in each one of those, there were fewer competitors. There was a tendency to have higher price and poorer quality for the taxpayers. And small businesses, which are supposed to have preferences under the statutes, actually were foreclosed from bidding.

The kind of contract I am talking about is this, and this is an engineering contract that was recently let: Indefinite delivery, indefinite quantity. This means whoever wins this contract has to be able to be prepared to provide any or all of the following in indefinite amounts in terms of services at any time the Government wants it: Planning, environmental services, inspections, operations, maintenance, family housing services, relocatable facilities and structures, public works supply management, demolition, architecture, and engineer and task order management.

The Government says, yes, we are very open to small business. You can bid on this if you are a small business. You just have to be able to provide all of that at any time we want it in whatever quantity we need it.

Naturally, small business is cut off. It is hurting the taxpayer. It is hurting the small businesspeople. It has a disproportionately negative impact on minority small business. It needs to be stopped.

The Senator from Maine quoted Angela Styles from the Office of Federal Procurement Policy. It cannot be said better than she said it:

When small businesses are excluded from Federal opportunities through contract bundling, our agencies, small businesses, and the taxpayers lose.

That is the short of it. I am glad this amendment is evidently going to go into this bill. I hope it stays in in conference. I thank the Senator from Maine for her advocacy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. I thank the Senator from Missouri for his hard work. He has been an advocate for attacking this problem for some time and it has been a pleasure to work with him.

One woman business owner really summed up what this is all about. She said, bundling is a shield that keeps large companies from having to compete with smaller firms.

Such a state of affairs is ultimately unhealthy for the Federal procurement system. We rely on a vigorous competition to keep prices low and to ensure we are purchasing high quality goods and services. This amendment is going to make a difference in our procurement system and a difference for small businesses. For that reason, it has been strongly endorsed by the National Federation of Independent Businesses and the National Black Chamber of Commerce.

I end my remarks by thanking the distinguished chairman of the committee and the ranking member for their cooperation and assistance. I ask for the adoption of the amendment.

Ms. SNOWE. Mr. President, today I rise in support of the contract bundling amendment offered by Senators COLLINS, TALENT, and HUTCHISON. As the new Chair of the Committee on Small Business, I am pleased to join with my colleagues to create a policy specifically for the Department of Defense, DOD, on the issue of contract bundling and to place restrictions on the Department's ability to bundle Government contracts to the detriment of small businesses in this country.

In fiscal year 2001, the Federal Government awarded close to $235 billion in Federal contracts. Yet, small businesses still received less than their fair share. As a result, the Federal Government failed to achieve the goal that we established for Federal agencies to ensure that at least 23 percent of Federal contracts go to small enterprises. Even more troubling is the fact that over the past 10 years, there has been a steady decline in the number of small business contractors receiving new contract awards.

Despite our efforts over the past several years to focus on concrete measures and legislation to increase small business access to the Federal marketplace, we have instead seen a disturbing trend in the opposite direction. America's small businesses are being eroded by the practice of contract bundling by Federal agencies.

In pursuing operational efficiencies, Federal agencies are making contract bundling decisions that block small business access to the opportunity to compete for Federal contracts. According to the Small Business Administration's Office of Advocacy, for every 100 bundled contracts awarded, small businesses lose an average of 60 contracts, and for every $100 awarded on a ''bundled'' contract, there is a $33 decrease to small business. At $109 billion in fiscal year 2001, bundled contracts cost small business $13 billion.

The Small Business Act provides that small firms shall have the maximum practicable opportunity to compete for these valuable Federal contracts. This policy was adopted because it is good for small business, good for the purchasing agencies, and good for the taxpayer who pays the bills.

Small businesses benefit from having access to a stable revenue stream and to a marketplace for new products and services. In turn, these small vendors to the Federal Government contribute to business development, job creation and economic stimulation in our local communities.

Federal agencies also benefit when small businesses participate in the Federal marketplace. Many of the most innovative solutions to our problems—such as new technologies in defense readiness—come from small firms, not large businesses, where complex chains of command, the need to consult with corporate headquarters, and repetitive sign-offs on a new idea that have to be cleared with accounting, human resources, and marketing, can stifle innovation and creativity. The absence of all these obstacles can increase the agility of a small business to deliver new innovative products at lower costs. Agencies trying to carry out their governmental functions can take advantage of these innovations and deliver better quality products and services to our constituents.

Finally, the taxpayer wins when small businesses compete for contracts. Small business means more competition, lower prices and higher quality.

Contract bundling, however, threatens these benefits. To simplify the contracting process, agencies take several smaller contracts and roll them into one massive contract. The result is a contract that a small business could not perform, due to its complexity or its obligation to do work in widely disparate geographic locations. This practice is particularly prevalent at the Department of Defense, which is the Federal Government's largest purchaser of goods and services.

In light of this practice, it comes as little surprise when I hear a small business owner say all too often that ''I could not perform the contract, even if I won it. So I won't even bid.'' When that happens, we all lose.

If small businesses create the majority of new jobs in America, which they do, and they account for half the output of the economy, which they do, then, they clearly deserve every possible chance to compete for the business of the nation's largest consumer—the Federal Government.

For these reasons, I called a hearing 2 months ago in the Small Business Committee to examine the continuing threat of contract bundling to small business and to identify positive, constructive changes to ensure that the Federal Government continues to provide contracting opportunities for small businesses.

The 1997 Small Business Administration reauthorization legislation established a definition of bundling and created an administrative process to review instances of bundling. By its terms, agencies are supposed to make a determination whether a proposed bundle is ''necessary and justified.'' Yet at the March 2003 hearing, witnesses testified that instead of making a good faith effort to determine the costs and benefits of a proposed bundling, Federal agencies, and Defense agencies in particular, have found ways to evade these ''necessary and justified'' determinations by identifying loopholes in the definition of bundling.

As the largest agency in terms of contracting dollars spent, accounting for about two-thirds of the Federal Government's total spending, it is time to hold the Department of Defense accountable for these bundling determinations—to make sure they include small businesses in the Federal procurement process, and to make sure they follow the law.

The amendment offered today provides a first step in our efforts to achieve positive constructive change to ensure the Department of Defense continues to provide contracting opportunities for small business. It closes loopholes and strengthens the bundling definition for the Department of Defense contract requirements. It also requires the Department of Defense to perform rigorous analysis on bundled contracts; to discuss alternative acquisition strategies; and, to make a determination that the benefits of bundling ''substantially exceed'' the benefits of the identified alternatives. This marks a higher level of scrutiny than exists under current law.

I appreciate my colleagues' willingness to work together to establish legislation that counters the effects of contract bundling on small business. And, continuing in the spirit of cooperation, I look forward to building on this very positive language to address the issue more broadly and make this policy governmentwide as we move forward with legislation to reauthorize the Small Business Administration and its programs later this summer.

Mr. KERRY. Mr. President, I applaud the efforts of Senator SUSAN COLLINS,

Senator JIM TALENT, and my colleague from the Small Business and Entrepreneurship Committee, Senator CARL LEVIN, for their efforts today on behalf of small businesses. Their amendment to S. 1050, the Department of Defense reauthorization bill, is a step in the right direction towards ending the deleterious effect contract bundling is having on small businesses.

Bundled contracts, while seemingly an efficient and cost-saving means for Federal agencies to conduct business, are anticompetitive and antismall business. Further, they will result in increased costs over time. When a Federal agency bundles contracts, it limits small businesses' ability to bid for the new bundled contract, thus limiting competition and the Government's ability to receive better and cheaper goods and services. Small businesses are consistently touted as more innovative, more flexible and responsive to an agency's needs than their larger counterparts. But when forced to bid for megacontracts, at times across large geographic areas, few, if any, small businesses can be expected to compete. This deprives the Federal Government of the benefits of competition and our economy of possible innovations brought about by small businesses.

This amendment attempts to close one of the loopholes used by agencies to pool like-kind contracts that were previously awarded to small businesses. The amendment requires the Department of Defense to conduct market research, identify alternative contracting approaches, and determine if the ''consolidation'' is necessary and justified for any ''consolidated contract'' above $5 million.

The amendment does not go far enough, however. It only applies to the Department of Defense, is only applicable for 1 year, and still allows a loophole that will allow bundling regardless of quantifiable dollar amounts. I have introduced legislation, S. 633, that would take the necessary steps to further limit the practice of contract bundling. I look forward to obtaining its Senate passage in cooperation with the Senators who advocated on behalf of this amendment and all those who are determined to remove the barriers to small business development created by contract bundling.

Ms. COLLINS. Mr. President, our amendment addresses a practice known as ''contract bundling,'' which has become increasingly prevalent in recent years. An October 2002 report for the Small Business Administration that measured the trends and impact of bundling over the last decade concluded that: the number and size of bundled contracts issued by federal agencies has reached record levels; small businesses are receiving disproportionately small shares of the work on bundled contracts; although only 8.6 percent of contracts were bundled, bundled contracts accounted for 44.5 percent of the money spent through contracts from 1992–2001; large firms won 67 percent of all prime contract dollars and 75 percent of bundled contract dollars; and small firms won only 18 percent of prime contract dollars and 13 percent of bundled contract dollars.

Moreover, the problem is getting worse. In 2001, 29,000 contracts were bundled government-wide, up eight percent from 2000 and 19 percent since 1992.

Our amendment would require that DOD perform rigorous analysis on bundled contracts in excess of $5 million. It would require that alternatives be considered and that a determination be made that the benefits of bundling ''substantially exceed'' the benefits of the identified alternatives. Savings in administrative or personnel costs alone would not constitute a sufficient justification for consolidation ''unless the total amount of the cost savings is found to be substantial in relation to the total cost of the procurement.''

Our amendment focuses on DOD where, the SBA report notes, ''Bundling is rooted.'' Although bundling rates occur at levels as high or higher at the General Services Administration, Department of Health and Human Services, Social Security Administration, and Treasury, ''the high level of spending by the Army, Navy, Air Force and the Office of the Defense Secretary focus attention on defense contracts as the primary source of bundling.''

This amendment is about more than just allowing small businesses to compete for contracts on a level playing field; it is about preserving our government's contractor base.

According to Office of Federal Procurement Policy Administrator Angela Styles the issue is a dramatically reduced contractor base, which has created a lost opportunity cost caused by choosing among fewer firms with fewer ideas and innovations to deliver products and services at lower prices.

Further, she notes that when small businesses are excluded from federal opportunities through contract bundling everyone, including our agencies, small businesses, and the taxpayers lose.

Our amendment sets in place a higher level of scrutiny than exists under current law and will be a good start in beginning to reverse a problem that has been building up over the last decade. For that reason, small business advocates such as the National Federation of Independent Business and the National Black Chamber of Commerce support it.

This amendment will make a real difference for small business. One small business owner wrote to me in support of my amendment because, she said, bundling had made contracts of the size they could hope to obtain disappear. She had, she wrote, been knocking on the doors at the Department of Defense for years, without any success due to bundling.

Another small business owner wrote to me that bundling had essentially created a monopoly in his line of business. Even small businesses that have a federal preference in contracting under various programs have seen the beneficial effects of the preferences all but wiped out due to bundling. One woman business owner pointed out in a letter to me what bundling truly is: a shield that keeps large companies from having to compete with smaller firms.

Such a state of affairs is ultimately unhealthy for a federal procurement system that relies primarily upon vigorous competition to keep prices low and the quality of goods and services high.

I am pleased that our amendment has received the support of the distinguished chairman and ranking member, and that it will become part of the defense bill the Senate passes today or tomorrow.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I likewise encourage the adoption of the amendment. I think it is cleared on both sides. I commend the sponsors of this amendment for their hard work.

The PRESIDING OFFICER. The time has expired on the amendment.

Mr. LEVIN. I ask unanimous consent that I be permitted to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan.

Mr. LEVIN. Mr. President, I will indicate our strong support for this amendment. A few years ago, we actually made an effort to get this amendment, or something very close to it, adopted. In fact, it was in our bill. It went to conference, where we ran into a real roadblock.

We are going to give it a go again. In addition to the usual suspects, we have the two Senators from Maine and Missouri who will be with us in conference, and I am very hopeful that this time, with their support, we will be able to get it over the goal line with the House, because that is where the impediment was a few years ago.

It is an important amendment. I very much support it. In fact, I ask unanimous consent that I be listed as a cosponsor to the amendment.

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

Mr. LEVIN. I note that Senator KERRY has been working very hard in this area. I want to make that clear for the record, because of his strong interest and support for this approach.

Again, I very much thank the Senator from Maine and the Senator from Missouri for their strong initiative in this area.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the Collins-Talent amendment.

The amendment (No. 757) was agreed to.

Mr. WARNER. 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.

Mr. WARNER. Under the order, my understanding is now we go to the amendment of the Senator from North Dakota, with 90 minutes equally divided.

AMENDMENT NO. 750

Mr. DORGAN. The amendment numbered 750 is at the desk for consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 750.

Mr. DORGAN. 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 funds for a nuclear earth penetrator weapon)

At the end of subtitle B of title XXXI, add the following:

SEC. 3135. PROHIBITION ON USE OF FUNDS FOR NUCLEAR EARTH PENETRATOR WEAPON.

(a) IN GENERAL.—Effective as of the date of the enactment of this Act, no funds authorized to be appropriated or otherwise made available for the Department of Energy by this Act or any other Act may be obligated or expended for development, testing, or engineering on a nuclear earth penetrator weapon.

(b) PROHIBITION ON USE OF FISCAL YEAR 2004 FUNDS FOR FEASIBILITY STUDY.—No funds authorized to be appropriated or otherwise made available for the Department of Energy for fiscal year 2004 by this Act or any other Act may be obligated or expended for a feasibility study on a nuclear earth penetrator weapon.

Mr. DORGAN. Mr. President, we are debating the question of whether this country ought to begin developing new nuclear weapons, an important debate, as about important a debate we will have in this Senate in a while. The press gallery is empty because this is not some sex scandal. It does not have sensational aspects to it. It is not a murder investigation. It is about whether this country ought to decide now to begin producing additional nuclear weapons.

I regret this is not debated and reported as a major national initiative so that the American people can be part of this discussion in our democracy. But it is not. I feel very strongly that where we are headed at the moment is in the wrong direction.

I told my colleagues before about a fellow from North Dakota I have always kind of enjoyed watching. He is called the flying farmer from Makoti. Some have heard me tell about it. The flying farmer from Makoti, a guy in a small town of 80 people, Makoti, ND, who drives a car, goes to county fairs and builds himself a ramp and jumps over cars, kind of a dare devil. His name is John Smith. He is actually in the Guiness Book of Records because he drove a car in reverse 500 miles averaging 36 anywhere. That is the claim to fame of the flying farmer from Makoti.

I think to myself, he has nothing over the Senate, especially on this issue. We are fixing to go in reverse a good long ways, with pretty aggressive speed, on the issue of nuclear policy.

We have had in this country an understanding that with respect to nuclear weapons, we have them as a deterrent. We do not have them to use; we have them as a deterrent. We now have people walking around this town engaged in policy discussions, talking about ''usable'' nuclear weapons. Nuclear weapons? It is just another weapon. In fact, let's talk about not just nuclear weapons, let's talk about low-yield nuclear weapons. Programs, they say, are mininuclear weapons or micronuclear weapons, usable nuclear weapons. Let's do designer nuclear weapons, they say. Let's now build a new nuclear weapon as a bunker buster nuclear weapon. I have no idea what they are thinking about.

In the paper today we have statements in this debate. We have to go ahead and develop new nuclear weapons because we do not want to tie the hands of our military. If we would not allow additional nuclear weapons to be developed, we would be the only country in the world that cannot produce new nuclear weapons. What on Earth are we thinking about?

Here is the nuclear stockpile for those who cannot sleep at night. There are some apparently who cannot sleep because we do not have enough nuclear weapons. I want to give you a sedative. We have roughly 30,000 nuclear weapons in the world—roughly. No one knows exactly, but these are the best estimates. North Korea, we think, has two or three. Pakistan has some, India has some, United Kingdom has more than a few, Israel, France, China, the United States, 10,600 nuclear weapons—we think, strategic and theater nuclear weapons—and Russia, 18,600 nuclear weapons.

Now, I mentioned yesterday that about a year and a half ago following September 11 there was a threat. Our intelligence community assessed a threat against this country. The threat was that someone has to have stolen a nuclear weapon from the Russian arsenal. Terrorists had stolen a nuclear weapon from the Russian arsenal and was preparing to detonate that nuclear weapon in this country in either New York or Washington, DC. The intelligence threat picked up, deemed perhaps credible, who knew, and so for a period of time it did not hit the press. For a period of time there was a seizure that terrorists might have a nuclear weapon, might detonate it in the middle of an American city. And then we are not talking 3,000 deaths, we are talking hundreds of thousands of deaths. It was determined a couple of months later that was not a credible threat, and we moved on.

But interestingly enough, the lesson from it was that it was perfectly plausible, to most, that a weapon could have been stolen in Russia, and it was plausible that a terrorist having stolen a nuclear weapon in Russia could have detonated it, had the capability to detonate it. Perfectly plausible.

We have discussed before the command and control of these nuclear weapons in Russia. We know they do not have the safeguards we would like. We know there are three-ring binders with hand notations about inventories of nuclear weapons; 30,000 of them exist in this world. We had a seizure about one being stolen, one being stolen and everyone is greatly concerned, as they should be.

So today we come to the Senate with a bill that says the following: We are not strong enough. We are not secure enough. We are worried about our future. What we need to do is build more nuclear weapons. We need to build low-yield nuclear weapons.

What is a low-yield nuclear weapon? That is one-third the size of the one in Hiroshima. And we need to do bunker buster nuclear weapons, earth penetrating bunker buster nuclear weapons. That is my amendment. It strikes the $11 million in this bill, prevents the opportunity to continue a design, a development, or manufacturer of bunker busting nuclear weapons, development testing, engineering, no funds authorized for feasibility study on the nuclear earth penetrator weapon.

So the question for the Senate in this amendment is very simple. Do you think you cannot sleep at night because we do not have enough nuclear weapons and the only way you will get a good night's rest is if you can build an earth penetrator bunker buster nuclear weapon?

Is that what you think? If so, then vote against my amendment. Katy bar the door. Let's develop another nuclear weapon. We are saying to the rest of the world with this nonsense, we have the right of preemption. We will now renounce the doctrine of first use. We believe there are ''usable'' nuclear weapons, and we need to build low-yield nuclear weapons—new ones. We reserve the right to build nuclear weapons despite the fact that we have had a moratorium for a decade. We believe we ought to have a bunker buster nuclear weapon. You know what the message is to India, to Pakistan, and to other countries that want nuclear weapons: That this country doesn't think we ought to prevent the spread of nuclear weapons, or that we ought to prevent the use of nuclear weapons but that we need to bulk up and build new ones, and that we believe they are potentially usable in some future conflict.

That is exactly the wrong message this country ought to be sending to anybody in the rest of the world. What we ought to be telling the rest of the world is we have 10,600, roughly, nuclear weapons and the means to deliver them as a deterrent against anyone who would threaten our liberty.

We don't need more. To build more is simply a green light to every other country in the world that wants to become part of the nuclear community.

I come from a State that understands defense. I support a strong defense. My votes in the Congress will show that. I support a very strong, robust defense system in this country. We have two air bases in the State of North Dakota. One is for K–135 tankers, and the other has both the Minuteman Missile with Mark 12–A warheads, as well as B–52 bombers.

Some have said that if the State of North Dakota seceded from the Union, it would be the third most powerful country in the world.

I know a little something about this. I have seen a nuclear weapon close up. I have studied what they do and what the impact of nuclear weapons are. I have tried to understand deterrent capability.

All of us know that with a world full of nuclear weapons we have been very blessed that we have not had a war with nuclear weapons. All of us know that. As I said yesterday, I have kept in my desk for some long while pieces of material that remind us that the proper approach to dealing with this threat is the approach we have used under Nunn-Lugar and other arms control and arms reduction treaties. This is a piece of metal taken from the shaft of an S–24 missile that had a warhead aimed at the United States. Where that missile was buried in the Soviet Union are now sunflowers. There is no missile. The warhead is gone. There are sunflowers at the place.

How that happened is we paid for the destruction of that missile. We didn't shoot it down. We destroyed it with American taxpayer dollars under arms control agreements.

This is copper metal from a ground-up Russian submarine. We didn't sink the submarine. We destroyed it under Nunn-Lugar and arms control reduction. We paid to have the submarine destroyed.

I also have a metal piece in my desk from a wing flap from a Soviet bomber. We didn't shoot it down. We paid to have the wing sawed off, and that bomber was destroyed with arms reductions and arms control money from Nunn-Lugar.

The fact is we know what succeeds. We know what has reduced tensions and reduced delivery systems. Yet we are told today that America will only be safer in this new day and in this new age of terrorism if we begin building new types of nuclear weapons. We are told by people in positions of significant responsibility in this town with policy roles and responsibility that it is not unthinkable for us to talk about ''usable'' nuclear weapons. In fact, such discussions have occurred in the pages of our Nation's major newspapers with respect to both Afghanistan and Iraq.

Let me talk for a moment about the so-called bunker buster or earth penetrator nuclear weapons. This is about whether we should begin the research in this new weapon. They are talking about a bunker buster. I assume they are talking bunker busters because of Afghanistan. I went to Afghanistan. I flew over the mountains where deep in the caves of Afghanistan this twisted, sick, demented murderer named Osama bin Laden with his people plotted the murder of innocent Americans. I understand. They have caves there. I understand it was not easy for us to deal with those caves.

The result is that we have people saying we need an earth penetrating bunker buster nuclear weapon. They are talking the size of a bunker buster up to nearly 70 times larger than Hiroshima. Hiroshima was 15 kilotons.

It seems to me that if you build a 1-megaton nuclear weapon as a bunker buster you are going to bust a whole lot more than a bunker. I am guessing you bust a mountain, you bust the territory for miles and miles and miles around, and you bust any living creature. So I don't know. If the bigger the explosion, the safer we are, the more security we have, then be my guest; I guess this would be your weapon. But the question at this moment in time, at this intersection in America history is, Is this what we want to do?

If today the trucks are moving in North Korea taking spent fuel rods from the nuclear plant, if today those trucks are moving in a way that takes that material to be produced in a nuclear weapon to be sold to terrorists, in a way that has a nuclear weapon showing up 14 months from now in a major American city, is our first responsibility in the Congress and in this country to say what we really need are more nuclear weapons? We have 10,600. Is that really our response? Or ought we decide that there are bigger issues and more important issues for us to be talking about with North Korea and the rest of the world?

Those issues include stopping the spread of nuclear weapons now. I mean stopping the spread now. We have so many countries and so many groups that want access to nuclear weapons. Our job is to be the world leader. We are the superpower. We have the largest economic engine in the world, and we are the military superpower in the world. We, unfortunately or fortunately, have the responsibility and the mantle on our shoulders to stop the spread of nuclear weapons. It is on our watch. It is our job. It is not someone else's job.

How do we stop the spread of nuclear weapons and decide to send the signal to the rest of the world that nuclear weapons cannot be used in this world of ours? Once you start moving nuclear weapons back and forth in anger, this Earth as we know it is gone.

Those people who talk about ''survivable'' nuclear weapons are nuts, just nuts. They still think about tank wars. You have 200 tanks; we have 100 tanks. Then we have a battle. Who has how many tanks remaining? Or if we have 200 and you have 100, that is not the way nuclear war will exist on the face of this Earth.

The only opportunity we have for our children and grandchildren is to prevent the use of nuclear weapons—not to talk about the use of nuclear weapons, which some are now doing. It is in their minds practical to talk about this new day and new age of threat security issues, and to talk about the potential of use of nuclear weapons.

It is interesting to me that in the middle of all of this discussion—even in this bill—I mentioned yesterday that we are going to have $9 billion in this bill for a national missile defense system to intercept an ICBM sent to us by either a rogue state or a terrorist.

First, terrorists and rogue states aren't going to get ICBMs. It is very unlikely. Their delivery of choice is going to be in a container on a tanker ship. It is not going to come in at 18,000 miles an hour. It will come in at 3 miles an hour to a dock in a major American city.

The lowest threat on the threat meter in this country we are spending the most money on is national defense, and the highest threat has the least expenditure. Regrettably, that is the appetite for these programs in the Senate. But when you talk about threat, the threat, it seems to me, is that this country will decide that it makes a U-turn on public policy here with respect to nuclear policy and decide it says to the rest of the world, here is a green light. The green light is to build additional nuclear weapons. We want to build so-called low-yield nuclear weapons, which is an oxymoron. There is no such thing as a low-yield nuclear weapon. We want to build them. Guess what Russia will be saying. We want to build some, too, then. There you go. We want to build earth penetrator bunker buster nuclear weapons. So will others. So we spark a new arms race. Instead of reducing the number of nuclear weapons and making this world a safer place, we will increase the number of nuclear weapons and will actually have other countries understanding that it is our country that talks about the potential use of nuclear weapons in future conflicts.

I think this is the most Byzantine thing I have witnessed in all the years I have served in the Congress. I do not have the foggiest idea how this is not met with the reaction by the American people: What on Earth could you be thinking about? Or aren't you thinking at all? I just do not understand it.

I likely will lose this amendment. It is a small amendment. The amendment deals with a relatively small amount of money but a critically important principle. I am just trying to take one piece out of this bill, the piece that says: Let's start the research to move toward an earth penetrating bunker buster nuclear weapon. Let's just start. Let's just take the first step.

I am saying: Let's not.

If you cannot sleep at night because we have 10,600 nuclear weapons, you are

not going to sleep better at night because you have a bunker buster high-yield jumbo buster nuclear weapon. That is not going to make you sleep better. Take some sleeping pills.

Mr. WARNER. Will the Senator yield for a question on my time?

Mr. DORGAN. I am happy to yield.

Mr. WARNER. I listened very carefully to your statements. You say let's see if we can't stop taking the first step. Am I correct in that?

Mr. DORGAN. That is correct.

Mr. WARNER. Am I not correct, last year the Congress of the United States spoke to that issue and took that first step and initiated that program? The first step has been taken.

Mr. DORGAN. I am sorry, I do not understand your question. Would you rephrase the question.

Mr. WARNER. Last year the Congress in the military authorization bill took the first step on this program, and put money in the bill. The research has already commenced.

I think the point of reference, to be accurate, I would say to my good friend—you are not taking the first step. In other words, this program is ongoing. In this bill are simply the funds to continue what the Congress authorized last year after debate and vote.

Mr. DORGAN. For purposes of the Senator from Virginia, giving him comfort, let me say my amendment will end the second step. If his point is the research for the bunker buster nuclear weapon was last year a first step, then let me suggest to you my amendment will withhold the money so we do not take the second step.

However, I think the larger point the Senator from Virginia understands. The step this country wants to take, to say there are usable nuclear weapons, that there are designer nuclear weapons that can be produced with lower and higher yields for special kinds of uses is a very dangerous step and exactly the wrong step for those of us who believe our leadership responsibility is both to stop the spread of nuclear weapons and to reduce the number of nuclear weapons. I think the larger point the Senator from Virginia understands. But if he is more comfortable with my saying we will stop the second step rather than the first step, we will stop whatever steps are taken in the wrong direction, in my judgment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I just think accuracy on these very important subjects is absolutely vital to establish credibility among our colleagues. I read from the report language. It says:

> This amount includes $21 million for advanced concepts, of which $15 million is authorized to continue the feasibility study on the robust nuclear earth penetrator.

So the Senator was incorrect in his representation that he was endeavoring as if to say I am going to stop it now before it gets started. I think that is fair, to let the Congress know, and particularly the Senate, this thing was authorized last year and voted upon, approved, funded. This is a second tranche of funds for research.

Essentially the amendment of the Senator is to establish a total ban on this entire program.

If I may say on my own time, of course, it is the intention of the Senator from Virginia, again in total fairness to our colleagues, to incorporate in this legislation, in this bill, a provision which is identical in purpose to the one we just voted on, the Warner amendment. It will say: The Secretary of Energy may not commence the engineering development phase, that's the next phase, or any subsequent phase of the nuclear earth penetrator program unless specifically authorized by Congress.

So into this legislation—it had been my intent to put it on in the second degree, but the time agreement understandably precluded that. It may well be other Senators will join us. But this is the intention of the Senator from Virginia. I wish to represent to all colleagues I will endeavor, and I have every reason to believe there is going to be support on the other side, to incorporate this language which will put Congress entirely in control of this program, entirely in control, just as I amended the previous legislation to put Congress entirely in control of every step as it goes along.

Mr. DORGAN. If I may use the word credibility, as the Senator from Virginia did, let me say to those who might listen to this debate or watch this debate, it is incredible to believe Congress will be in charge of every step of the development of this program. That is preposterous. That is not the case on any defense system of which I am aware.

My amendment is very simple, I say to the Senator from Virginia. My amendment prohibits the use of these funds. You did not talk about prohibiting funds. You want to fund it. You want to authorize it. You want to move ahead with it. That is fine. We have a disagreement about that. But there is no credibility issue here.

The question is whether this country wants, with this legislation, to say to the rest of the world, By the way, we have embarked on a new venture here and with this new venture, whether it is last year or this year, it is decided we need new nuclear weapons including bunker busting nuclear weapons.

If the answer to that is yes, that's what we want to do, then the answer is we vote with my colleague from Virginia. If you believe it is moving in exactly the wrong direction, it is driving 500 miles in reverse like the flying farmer from Makoti, if you really believe this is stepping backward, as I do, and dangerous for the rest of the world, you vote no. You vote to strip the money.

Look, money is money, as you know. This $11 million, $15 million is probably not a lot of money to some. But my amendment strips that money to say let's stop this. We do not need earth penetrating bunker busting nuclear weapons. Does the Senator from Virginia believe at this moment we can't sleep because we don't have bunker busting earth penetrating nuclear weapons?

Mr. WARNER. The distinguished chairman of the subcommittee is here. I asked him to address the strategic implications and the necessity. The Chairman of the Joint Chiefs just yesterday, when I was consulting with him, said there is now a proliferation of effort by nations which have interests antithetical to ours, going deep into the ground to establish facilities to manufacture poison weapons, biological weapons, gas weapons, and possibly nuclear weapons. I think it is prudent that our arsenal of defense deterrence have in it weapons, if I may finish, both nuclear and conventional.

Mind you, there is an ongoing effort parallel to this one to determine whether or not we can achieve the same strategic goals of destruction of deep underground facilities with conventional weapons, which would certainly be used prior to the use of any nuclear weapon. So it is a parallel program of conventional and nuclear.

But I respect my colleague whose views are different than mine. His amendment bans forever this type of weapon—research, development, everything. It stops it cold.

Mr. DORGAN. I am sorry, if the Senator wants to talk about credibility, let me correct the Senator, if you do not mind. On page 2 of my amendment it prohibits it for the year 2004, because that's all I can do, with respect to 2004.

Mr. WARNER. That is correct.

Mr. DORGAN. And for the year 2004 it says: No funds authorized or appropriated or otherwise made available, et cetera, for a feasibility study.

Mr. WARNER. Which study was authorized, I say to my colleague, last year.

Mr. DORGAN. Let me finish my point. If we are going to be completely accurate here.

The PRESIDING OFFICER. The Senator will suspend. The Chair will advise the Senator from North Dakota has the floor. All conversations are being charged against his time.

Mr. WARNER. Mr. President, I think I said when I took the floor, it would be charged to the Senator from Virginia. It is in the nature of a colloquy which takes place, so statements on my behalf are charged against my time, statements by the Senator from North Dakota on his time.

Mr. DORGAN. That was my understanding.

The PRESIDING OFFICER. Without objection, the time will be so charged.

Mr. DORGAN. Let me just make this point because I think it is important. I, too, want to be accurate. I want to be accurate on my side and your side. My amendment prohibits the use of funds

for the earth penetrator weapon to be ''obligated or expended for development, testing, or engineering on a nuclear earth penetrator weapon.'' That is perpetual. And ''(b) Prohibition on Use of Fiscal Year 2004 Funds'' deals only with this fiscal year.

So to be perfectly accurate, the question of the withholding of funds with respect to the feasibility study only applies to this fiscal year. It is not permanently banning that funding because I can only ban it for this year. So I just want to make that point.

I am happy to yield and happy to engage in this colloquy, but I think the issue is quite simple actually: Either one believes we ought to have new nuclear weapons, earth penetrating bunker busters—and I don't remember exactly who showed up to testify yesterday; someone from the Joint Chiefs, I guess, and they have told us that somewhere around the world, somebody is auguring deep into the earth, God forbid, and we might well need a nuclear weapon to go get them.

I would say to people who come around here with those stories: Go get some fresh air. Put some sugar on your cereal. I don't, for the life of me—there are people around here, I swear to you, who, if told our adversaries were creating a cavalry, would be on the floor trying to buy horses. I don't understand this notion that there is a rumor that somebody is doing something, so let's create a new nuclear weapon.

The reason I offer this specific amendment, I say to the Senator from Virginia, is that I know they talked about this in Afghanistan, in Iraq. And they talked about the issue of ''usable'' nuclear weapons. They talked about the difficulty in caves. I have flown over those mountains. I have seen those mountains and the caves. But for us to come back here and say: Oh, by the way, our new global strategy is to create a new class of nuclear weapons—I think that has profound implications with respect to the stability and the spread of nuclear weapons around the world.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I readily state you have one position on the concept of whether this Nation should, you said, start up—but I think you agree with me now, it is ongoing—so stop where it is, this program. You make your point. I make my point.

What I am trying to do is to clarify, for the benefit of our colleagues, precisely what I understand your amendment does. What this Senator, or perhaps joined by others, intends to do is, namely, make the effect of the amendment parallel to what we have done three times now. Three times this body has voted not to ban research on a nuclear system. You are asking for a ban.

I draw your attention to your first sentence: ''Effective as of the date of the enactment of this Act, no funds authorized to be appropriated or otherwise made available for the Department of Energy by this Act or any other Act may be obligated or expended for development, testing,'' and so forth.

Does that not capture the existing funds that were appropriated last year?

Mr. DORGAN. No, it does not.

First of all, read the last words, ''development, testing, or engineering,'' and then compare that to (b) in which I am talking about the feasibility study. I am withholding the funds from the feasibility study. I was attempting to make that distinction for you.

Mr. WARNER. But if your amendment would pass, wouldn't it be the effect to the Department of Defense: Why waste last year's money if you are prohibited from spending another nickel?

Mr. DORGAN. I am all for that statement: Why waste money? I am all for that. If the proposition is, what I am trying to do is tell the Defense Department, don't waste money, then sign me up and count me in.

Mr. WARNER. I think we have clarified this situation as best we can. But I wish to state to my colleagues, it is the intention of this Senator—I hope to be joined by others; and, indeed, one on the other side of the aisle—to put in legislation, as a part of the consideration of this subject of the penetrator, the exact language we had and voted on very strongly here just 15 minutes ago.

Mr. DORGAN. I have deep respect for my colleague from Virginia. We are friends. We disagree on this issue.

Let me make a final point. I know others want to speak on this matter. We are now in a new environment in which the language about the nuclear threat has changed dramatically. We have people who say we really need to begin nuclear testing once again. We have people who say we ought not forswear the first use of nuclear weapons; first use might in some circumstances be perfectly plausible. We have some who say nuclear weapons are ''usable'' as tactical issues, as strategic issues on the battlefield, they are usable nuclear weapons we ought to be considering. There are people who say we need new kinds of nuclear weapons—bigger ones, the jumbo ones, which is the earth penetrator, and smaller ones, the smaller, mininuclear weapons that would be one-third the size of Hiroshima, which certainly is not mini, but that is what they say.

We have people saying all these things in this country, some of them in very responsible policy positions. I think the rest of the world sees all that, listens to that, looks at bills such as this, and says: You know what, the United States has 10,600 nuclear weapons in its arsenal. And they say they need more? And they say they have a right to use them? They will not renounce first use.

They say they want specific, more designer kinds of weapons for battlefield use.

They are saying: You know, the United States has changed. It used to be the United States did everything conceivable in its power to say: Never shall a nuclear weapon be used. Our nuclear weapons are deterrents, deterrents so they never can be used against us and never used against others. But now it has all changed, and there are people who think it is perfectly plausible, it is just another weapons program, just part of our weapons system.

Well, in 2003, with what is happening around the world—terrorists, India, Pakistan, North Korea—I cannot think of a more destructive piece of public policy than to continue with this kind of nonsense. It is not just wrong, it is dangerously wrong, in my judgment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, may I just have 3 minutes from the Senator from North Dakota?

Mr. DORGAN. I am happy to yield the time to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. LEVIN. Mr. President, I support the amendment offered by the Senator from North Dakota. I think for the reasons he gives, we should not walk down a road which tells both our people and the rest of the world that we are going to consider the development of what was called the bunker buster, which, as a matter of fact, is from 28 to 70 times the size of the Hiroshima bomb.

What we decided last year was we would put a fence around the first year's study and we would get, indeed, a report before that money was spent. It is a report which is totally unsatisfactory.

So there was a lot of doubt—a lot of doubt—in this body about whether we should proceed down a road which considers the utilization of nuclear weapons in new forms that are 28 to 70 times the size of Hiroshima.

Now we are also told, this morning, that now there may be some chemical and biological sites that could be underground for which these weapons would be used.

Well, first of all, conventional weapons are perfectly adequate to close entrances and holes. But putting that aside for a minute, just think about it. The intelligence community said they had identified 590 suspect sites in Iraq—590 sites, according to Secretary Rumsfeld. Now, that used to be a classified number, but apparently the other day it was just declassified by Secretary Rumsfeld, so I will use that number. The intelligence community said 590 sites over there in Iraq are suspect chemical and biological weapons sites.

We are going to drop a nuclear weapon on those sites based on the intelligence of the CIA? Are we kidding? Do we know what we are dealing with when we are talking about nuclear weapons 28 to 70 times the size of Hiroshima? Those are the weapons being considered for modification for the so-called bunker buster. They are not

bunker busters. These are world peace destroyers. These are city destroyers. These are nation destroyers.

For us to casually—and I think it is casual—talk about, ''Let's go down this road, we are not talking about development here, we are only talking about research,'' we have the person who is the top person in the Defense Department as the adviser to the Secretary of Defense on nuclear matters, Fred Celec, who says, ''If a hydrogen bomb could be successfully designed to survive a crash through hard rock, it will ultimately get fielded.''

Now, that is not one of the supporters of the Dorgan amendment who is saying that. That is the top adviser to the Secretary of Defense who is saying: If we can show that it will work, and design it, it will be fielded.

The rest of the world does not ignore what we do here. What we are doing here is marching down a road which is dangerous and reckless in terms of world peace and security. And we should not do it.

This is not just simply a study. This is a step—a very important step—down a road, in a direction which, apparently, according to Fred Celec, who is the Deputy Assistant Security of Defense for Nuclear Matters, will be ultimately fielded.

I support the amendment of the Senator from North Dakota. I do point out that there was a fence around last year's money. It was not as though last year we decided to proceed. There were some conditions which were attached. As far as I am concerned, when you read that report, it is very unsatisfactory, very general, and not at all sufficient to justify moving to the next $15 million.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, that fence was met. The Department submitted its report. On receipt of that report, the program, as authorized last year, commenced. It is an ongoing program.

Mr. LEVIN. The Senator is correct. But it is important to point out that there was so much concern about step 1, there was a fence or a condition attached to the expenditure of the money. It is incumbent upon all of us to read the report and ask, does that satisfy us that we ought to take the next step?

Mr. WARNER. Mr. President, the use of fences is quite common in a number of areas in the Defense authorization process.

Mr. LEVIN. It is, indeed.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Twenty-seven minutes.

Mr. ALLARD. Mr. President, I rise in opposition to the Dorgan amendment. Before I make any more comments, right at the very start, I want to make one thing clear: We are not building new nuclear weapons. We are modifying existing nuclear weapons. Somehow the other side is trying to imply that we are building new nuclear weapons, and we are going to continue to add to the number of nuclear warheads we have. We are continuing to reduce the number of nuclear warheads under the Moscow Treaty.

The Senate bill includes an authorization of $15 million to continue a 3-year feasibility study on the robust nuclear penetrator. I repeat, to continue the feasibility study. This is not a new issue for the Congress to consider. In the National Defense Authorization Act for fiscal year 2003, the Congress authorized $15 million for the first year of the feasibility study on the robust nuclear earth penetrator which is now under way.

This bill authorizes only the continuation of the feasibility study. It does not authorize the production or deployment of such a capability.

The RNEP for feasibility—referring to the robust nuclear earth penetrator—will determine if one of two existing nuclear weapons can be modified to penetrate into hard rock in order to destroy a deeply buried target. That is the challenge we face. Our potential enemies are trying to avoid any vulnerability to targets by going deeper and deeper underground. In order to destroy deeply buried targets that could be hiding weapons of mass destruction or command and control assets, this new technology needs to be an option, not that we are necessarily going to use it.

The Department of Energy has modified nuclear weapons in the past to modernize their safety, security, and reliability aspects. We also modify existing nuclear weapons to meet new military requirements. The B–61–11, one of the nuclear weapons being considered for the RNEP feasibility study, was also modified once before to serve as an earth penetrator to hold specific targets at risk. At that time, the modification was to ensure the B–61 would penetrate frozen soils. The RNEP feasibility study is attempting to determine if the same B–61 or another weapon—for example, the B–83—can be modified to penetrate hard rock or reinforced, underground facilities. Authorizing research on both options, nuclear and conventional—and we hope we will never have to use the nuclear; we hope we can continue to advance the conventional technology so that would be the preferred method of choice to go after these deep underground hardened targets—for attacking such targets is a responsible step for our country to take

Again, we are not producing new nuclear weapons. We are doing a modification. It is a continuing modification. We have modified the B–61 before. We are looking at the B–83 to see if perhaps we can't do a modification on that.

The sponsor of the amendment made the comment that the United States is setting an example for the rest of the world. We are continuing to set the example for the rest of the world by reducing the number of nuclear warheads. The problem is countries such as Afghanistan and Pakistan don't care what we are doing. Despite our best efforts to set an example, they are continuing to develop nuclear warheads. They are doing more than we are today as far as the triggering mechanism for nuclear warheads. If that continues, where will that put us as far as the defense of this country is concerned?

I commend President Bush. He has taken the lead in reducing the number of nuclear warheads. It is great that we are able, through these kind of programs, to take covert silos, as my friend from North Dakota mentioned, and we are planting sunflower seeds. We are still doing that today as a result of the Moscow Treaty. Even before the treaty, the President announced that he would take down the Peacekeeper which is buried in silos in Wyoming, Nebraska, and Colorado. That effort is moving forward. We are continuing to do that. The point is, we need to have some flexibility. Times are changing. Our targets are changing. We need to have new technology. We need to study. That is what this provides, a feasibility study of these various options. We simply cannot afford to be caught shorthanded. Too much is at risk. America is at risk.

ADM James Ellis, Commander of U.S. Strategic Command, confirmed in testimony before the Strategic Forces Subcommittee, on April 8, 2003, that not all hardened and deeply buried targets can be destroyed by conventional weapons. That is his view. Many nations are increasingly developing these hardened, deeply buried targets to protect command and communications and weapons of mass destruction production and storage assets. It is prudent to authorize the study of potential capabilities to address this growing category of threat.

What the Senate bill authorizes is simply the second year of the 3-year feasibility study and nothing more. Should the National Nuclear Security Administration determine through this study that the robust nuclear earth penetrator can meet the requirement to hold a hardened and deeply buried target at risk, NNSA still could not proceed to full-scale weapons development, production, or deployment without an authorization and appropriation from Congress.

We do the study. Say the study says there is a feasible alternative. Still they cannot move forward until they have the authorization for development and production through authorization and appropriation from the Congress.

We should allow our weapons experts to determine if the robust nuclear earth penetrator could destroy hardened and deeply buried targets to assess what would be collateral damage associated with such a capability. Then Congress would have the information it

would need to decide whether development of such a weapon is appropriate and necessary to maintain our Nation's security.

I urge my colleagues to join me in opposing the Dorgan amendment as it now stands. This is an important issue. We are talking about the defense of this country. A lot is at stake. I think we need to keep in mind that despite the fact we are doing a lot today to reduce the number of nuclear weapons in our arsenal, other countries are continuing to test. I put in the RECORD yesterday a whole page of tests that have occurred since we quit testing underground. Other countries are continuing to develop their weapons. We need to continue to use our technology to make sure we have the proper defenses and the wherewithal to protect our troops in the field, to protect America, and to protect freedom.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER (Ms. MURKOWSKI). Who yields time?

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

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

AMENDMENT NO. 750, AS MODIFIED

Mr. DORGAN. Madam President, I have sent a modification to the desk, a technical modification. I ask to have the modification agreed to.

Mr. ALLARD. There is no objection on this side.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 750), as modified, is as follows:

(Purpose: To prohibit the use of funds for a nuclear earth penetrator weapon)

At the end of subtitle B of title XXXI, add the following:

SEC. 3135. PROHIBITION ON USE OF FUNDS FOR NUCLEAR EARTH PENETRATOR WEAPON.

(a) IN GENERAL.—Effective as of the date of the enactment of this Act, no funds authorized to be appropriated or otherwise made available for the Department of Energy by this Act may be obligated or expended for development, testing, or engineering on a nuclear earth penetrator weapon.

(b) PROHIBITION ON USE OF FISCAL YEAR 2004 FUNDS FOR FEASIBILITY STUDY.—No funds authorized to be appropriated or otherwise made available for the Department of Energy for fiscal year 2004 by this Act may be obligated or expended for a feasibility study on a nuclear earth penetrator weapon.

Mr. KENNEDY. Madam President, I urge the Senate to support this amendment to strike funding for nuclear bunker busters. What sense does it make for the Nation to do all it can to prevent the proliferation of nuclear weapons, and then start proliferating them ourselves?

''More has changed on proliferation than on any other issue.'' CIA Director George Tenet made this statement not too long ago to the Senate Armed Services Committee. He wasn't talking about the United States but he should have been. As we have seen already in this debate, the Bush administration's policy would make the United States the biggest nuclear weapons proliferator of all. They want to ''nuclearize'' as many of our conventional weapons as possible.

But nuclear weapons are different. The unique destructive power of these weapons gives them the capacity to threaten the very survival of humanity. That is why nuclear weapons have always been kept separate from other weapons as part of our strong commitment to do all we can to see that they are never used again. Only in the most dire circumstances should the use of nuclear weapons be considered—only if the very survival of our Nation is threatened.

It makes no sense to break down the firewall we have always maintained between nuclear weapons and other weapons. This policy has worked for over half a century in preventing nuclear war. Other nations have complied with the basic principle, too. A nuclear weapon is not just another item in our Nation's arsenal. We don't need to start building mini-nukes when our state-of-the-art, high-tech conventional weapons can do the same job. And we don't need to go nuclear with our conventional bunker buster weapons, either.

I was 13 years old on that fateful day in August 1945, when a B–29 bomber flying high over Hiroshima dropped the first nuclear weapon, ''Little Boy.'' More than 4 square miles of the city were instantly and completely devastated. Over 90,000 people died instantly. Another 50,000 died by the end of that year. Three days later, another B–29 dropped ''Fat Man'' over Nagasaki, killing 39,000 people instantly and injuring 25,000 more.

Since then, no nuclear weapon has ever been used in any war. There have been close calls in the past half century but this weapon was never used. In 1948, the Soviet Union began the Berlin Blockade, and we considered the use of tactical nuclear weapons if the conflict escalated. We also considered the use of nuclear weapons in the Korean war. In 1957, the Soviets launched Sputink, and it became clear that two oceans could not protect us from a nuclear attack at home.

In 1958, President Eisenhower declared a moratorium on all nuclear testing—with the understanding that the Soviet Union would also honor the moratorium. But testing resumed in 1961, and after negotiations with the Soviet Union, we issued a Joint Statement of Agreed Principles for Disarmament Negotiations—the so-called McCloy-Zorin accords—which outlines a program for general and complete disarmament.

In the work of the Cuban missile crisis, President Kennedy pushed forcefully for a treaty to limit the development of nuclear weapons. The result was in the Partial Nuclear Test Ban Treaty in August 1963, prohibiting tests of nuclear weapons in the atmosphere.

In February 1967, a treaty prohibited nuclear weapons in Latin America.

In July 1968, the Treaty on the Non-Proliferation of Nuclear Weapons was signed in Moscow, London, and Washington, and entered into full force in March 1970. That same year brought the beginning of the first round of Strategic Arms Limitation Talks in Vienna. The SALT agreement was signed 2 years later in 1972 and placed restrictions on the number and size of nuclear warheads in the Soviet and American arsenals.

In the 1970s, we made further progress in limiting the threat of nuclear war. The Senate approved treaties to prohibit the placement of nuclear weapons in the ocean and to limit underground testing. We almost reached an agreement on the second round of Strategic Arms Limitation Talks, or SALT II, but the Soviet invasion of Afghanistan in 1970 took that agreement off the table.

In 1987, the Soviet Union and the United States signed the Intermediate Range Nuclear Forces Treaty. In 1991, using pens made from melted down missiles, President Bush and President Gorbachev signed the Strategic Arms Reduction Treaty START I.

Six months later both nations committed to further nuclear program reductions and eliminations. Soviet leader Gorbachev initiated a moratorium on nuclear testing in October 1991, and President Bush canceled the Midgetman Missile Program and stopped production of advanced cruise missiles in January 1992. That summer, the Senate voted for a 9-month moratorium on nuclear weapons testing beginning in October 1992, with a final cutoff of all testing by September 1996.

In 1993, Presidents Bush and Yeltsin signed START II, reducing U.S. and Soviet arsenals of longer range nuclear weapons and eliminating all land-based missiles with multiple warheads over the next 10 years.

After we finalized this testing moratorium, France and China stopped testing, and Russia continued its own moratorium. But now, after many difficult years of this progress toward preventing nuclear war, the Bush administration wants to change direction and go the other way. Last year, it requested $15.5 million to study the feasibility of adding a nuclear bunker buster to our arsenal. They say they need it to destroy hardened and deeply buried targets, and they want $15 million more this year to continue the project.

They say they need it to destroy hardened targets buried deeply underground, but the scientific community has raised serious questions about the effectiveness and need for these weapons. A nuclear explosion in a bunker could spew tons of radioactive waste into the atmosphere. Obviously, trying

to develop nuclear weapons for this mission distracts from developing conventional alternatives to do the job.

According to Dr. Sidney Drell, of Stanford University: Currently, we don't have the capability of digging down more than 50 feet to reach deeply buried hardened targets. If we detonate just 1 kiloton between 20 and 50 feet down, a million cubic feet of dirt would have radioactive contamination, and a crater the size of the crater at the World Trade Center would be created.

Imagine what would happen if one of these weapons was a nuclear weapon with a yield of 400 kilotons and was detonated. Is it even possible to imagine a crater 400 time the size?

It makes no sense to start down this road. No country should be making weapons like that. It is wrong for this administration to start developing new types of nuclear weapons that have no plausible military purpose and that can only encourage even more nations to go nuclear.

Mrs. BOXER. Madam President, I am very concerned that the fiscal year 2004 Defense Authorization Act provide $15 million of funding for the continued study into the feasibility of developing a robust nuclear earth penetrator.

The robust nuclear earth penetrator is a bomb designed to bury itself deep into the ground before it explodes. This is not a low-yield nuclear weapon. According to reports, this weapon would be five times more powerful than the device detonated at Hiroshima—and would have an even greater impact because a nuclear weapon's force is multiplied when its shock wave penetrates the crust of the Earth.

The aim of those who support this research into the robust nuclear earth penetrator believe that a usable nuclear weapon will be able to destroy deeply buried targets with few casualties and little fallout. Unfortunately, science is not on their side.

Last year, a number of scientists, including Sidney Drell of the Stanford Linear Accelerator Center wrote, ''an earth-penetrating warhead with a yield sufficient to destroy a buried target cannot penetrate deeply enough to fully contain the nuclear explosion; it would necessarily produce an intense and deadly radioactive fallout. Thus, it is not technically possible to use nuclear weapons to destroy deeply buried targets without at the same time causing significant radioactive contamination and collateral damage if used in an urban area.''

Another argument pushed by those in favor of these nuclear weapons is that they would be useful in destroying stockpiles of biological and chemical weapons.

While a nuclear weapon could, in fact, incinerate biological and chemical weapons if the nuclear blast is nearby, it is unlikely that we will ever have perfect intelligence about the location of these weapons. Our continued inability to find weapons of mass destruction in Iraq is a perfect illustration.

In addition, the Union of Concerned Scientists points out that the robust nuclear earth penetrator could actually disperse biological and chemical weapons by spreading them into the resulting crater and surrounding air. These weapons are not usable weapons.

Finally, our continued development of new uses for nuclear weapons will only spurn other nations to do the same.

As Rose Gottemoeller, the former Deputy Secretary of Energy, has said, ''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.''

The war in Iraq showed our Nation has overwhelming superiority when it comes to conventional forces. It doesn't make any sense to promote the development of nuclear weapons and signal to the world that weapons of mass destruction have other uses other than a means of last resort.

I urge the passage of the Dorgan amendment.

Mr. ALLARD. Madam President, I ask unanimous consent that we vote at 12:30 relative to the Dorgan amendment; that our time be equally divided between both sides; and that after the vote, Senator BYRD be allowed to speak for 20 minutes.

Mr. WARNER. Is this a UC request?

Mr. ALLARD. It is my understanding Senator REID discussed this with the chairman and it was agreed that Senator BYRD would have an opportunity to speak for 20 minutes after the vote.

Mr. WARNER. That's correct. If I may add a word or two to this. In the course of my colloquy with the Senator from North Dakota, it was indicated there would be an effort to place in this bill language comparable to what was in the amendment that was voted on immediately prior to this one to give a consistency in the manner in which we are treating these very serious questions. So I will put this on the desk and I will represent to our colleagues that this language will be forthcoming and a part of this bill.

Mr. REID. Reserving the right to object, that doesn't mean we are going to have two votes, or does it?

Mr. WARNER. I have indicated to the ranking member that this language, I think, could be voice-voted because I think there is consensus on both sides in an effort to make parallel and to put the Congress clearly into play.

Mr. REID. Madam President, it is also my understanding that Senator LAUTENBERG would be willing to offer an amendment following the statement of the Senator from West Virginia. He also indicated he would agree to a time limit.

Mr. WARNER. We are prepared to enter into that now.

Mr. REID. I haven't had a chance to talk about the time with him. I just wanted to alert people of that. Shortly after Senator LAUTENBERG offers his amendment, there would be a vote.

Mr. WARNER. It is my hope that in the course of Senator BYRD's 20 minutes, if that decision could be made, Senator BYRD would certainly understand the need to maintain the momentum.

Mr. ALLARD. Madam President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Madam President, let me conclude with a few comments and indicate, as I should have, that Senator FEINSTEIN of California, Senator BYRD, and Senator BINGAMAN are all cosponsors of my amendment. Let me conclude by saying I understand there is a difference of opinion about what defending America really is. I don't think it is defending our interests or providing greater national security to be involved in the creation of new nuclear weapons.

I believe the best way to defend our country, especially in a new day and age of terrorism, is to understand we must find ways to prevent terrorists from ever acquiring nuclear weapons, for they surely will use them. We saw what they did with a low-tech weapon, with jet airplanes full of fuel. That was a low-tech weapon.

The ability to acquire nuclear weapons will be a devastating consequence, especially for us in the United States, because terrorists will surely want to use them. It seems to me our job is to stop the spread of nuclear weapons, do everything conceivably possible to stop the spread of nuclear weapons and provide no green lights, no go signs for anybody in the world to believe that we think it is acceptable for the use of nuclear weapons; that we believe nuclear weapons are ''usable'' in battlefield circumstances; that we believe we ought to build additional nuclear weapons, understanding that others will as well. If we want to do low yield, they will also want to. If we want to do penetrating bunker busters, they will want to do them.

Our job, it seems to me, is to say the only success we will be able to claim in the future is that we prevented the spread of nuclear weapons and prevented their use and, over a long period of time, began to reduce the number of nuclear weapons.

Thirty thousand nuclear weapons exist on this earth. The detonation of one will represent the greatest calamity, or potentially represent the greatest calamity in the history of the world. The detonation of one relatively small nuclear weapon in the middle of a major American city could likely cause hundreds of thousands of deaths.

This is a big issue. This is very important. I think people walking around this town talking about usable nuclear weapons, beginning to test nuclear weapons once again, building new designer nuclear weapons, is a terrible mistake. It is sending a signal to the

rest of the world that nuclear weapons are like other weapons. They are not. They are not like other weapons. The only value of a nuclear weapon for us has been as a deterrent to prevent others from using them.

We must, it seems to me, from this day forward, with the world populated by 30,000 nuclear weapons, find a way to keep them out of the hands of the wrong people, to stop the proliferation, and to begin to reduce their number. That ultimately represents our security. That is the way to defend this country: to stop the spread of nuclear weapons, not to build more.

I suspect we will see on this amendment, as we have on the previous amendments, that I will come up short on the vote. I regret that very much. I so strongly believe this country is sending a terrible signal to the rest of the world—Russia, China, Pakistan, India, you name it. I think this is a dreadful mistake. It does not strengthen this country. In my judgment, it makes this country more vulnerable in the long term.

Let me finish as I started. I have been the strongest supporter of this country's system of defense. I voted for the Defense bills. I worked on weapons systems. I think this country needs a robust, strong defense. I have always felt that way. I come from a State with two military airbases and the best Air National Guard in the country. I understand B–52s, KC–135 tankers, and Minuteman missiles.

I support a strong, robust defense. Nuclear weapons are different. They are different. They threaten the very existence of the world as we know it, and that is why it must be dealt with differently. That is why I offer this amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

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

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. 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. WARNER. Madam President, I move to table the Dorgan amendment and ask for the yeas and nays.

The PRESIDING OFFICER. That motion is not in order while time remains for debate.

Mr. WARNER. I yield back the time on our side. It is my understanding they will be yielding back time on their side.

Mr. DORGAN. Madam President, I yield back the remainder of my time.

Mr. WARNER. All time having been yielded back, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. WARNER. I move to table the amendment.

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

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

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

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

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—56

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

NAYS—41

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

NOT VOTING—3

Edwards	Graham (FL)	Kerry

The motion was agreed to.

Mr. WARNER. Madam President, we will consult with the proponent of the underlying amendment. But for the moment, the Senate has tabled this matter.

It is my hope we could proceed to the Nelson amendments. I thank our distinguished colleague from Florida for his cooperation. We can do both by voice vote, it is my hope.

On the one amendment, I would like to be associated with you because I represented throughout the vote, to my side, that the language be incorporated. I yield the floor.

The PRESIDING OFFICER. At this time there is a previous order to recognize the Senator from West Virginia.

The Senator from Nevada.

Mr. REID. Madam President, we have spoken to the Senator from West Virginia. He has no objection to the two managers of the bill disposing of the two Nelson amendments.

If I could just be heard briefly? We have several people on our side who want to offer amendments. I hope those people who want to offer amendments would contact the two managers of the bill. We are running out of names of people to offer amendments. Both leaders have indicated they want to complete this bill as quickly as possible. We are not going to be able to work late into the night tonight.

Mr. WARNER. Madam President, if I could bring some new information on that subject? The majority leader had a conversation with me just a minute ago. I have not had a chance to share it.

I intend to stay here, as will other Members on my side, tonight. The majority leader is open to having votes, if necessary, at about 9:30 tonight.

Mr. REID. Madam President, this is an excuse so he doesn't have to go to this dinner.

Mr. WARNER. As we say in the law, I plead nolo contendere.

Mr. LEVIN. What dinner would we also be missing?

Mr. REID. We are not invited.

Mr. LEVIN. We are not invited.

Mr. REID. I would say then there is a possibility we could complete this legislation tonight.

Mr. WARNER. If we get the cooperation and Senators call—we are right here on the floor—and indicate that you desire to have an amendment, we will see if we can accept it. If we cannot, we will proceed to put it in line.

I say to the leadership that we are going to hear from the distinguished senior Senator from West Virginia. Following that, I know of one amendment on this side by Senator HUTCHISON, the Senator from Texas. And we have the amendment by the Senator from New Jersey.

Is that my understanding?

Mr. LEVIN. That is correct.

Mr. WARNER. Could we put those in order now, but maybe not lock them in?

Mr. REID. That would be good, if Senator HUTCHISON could go first before Senator LAUTENBERG.

Mr. WARNER. I think I can make those arrangements.

Mr. REID. How long will she take?

Mr. WARNER. Fifteen minutes, or less. We may be able to accept it without requiring a vote.

Mr. REID. Senator LAUTENBERG would be 1:45, and he will take one-half hour. He probably will not use the whole one-half hour. I would be happy to ask unanimous consent that Senator HUTCHISON from Texas be allowed to offer her amendment, followed by the Senator from New Jersey.

Mr. WARNER. I am agreeable to that unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. If the Senator will yield, I have an amendment on which I will not take much time, if I could just have 15 minutes. I do not know if it will be accepted or not. I ask for 15 minutes.

Mr. WARNER. How soon would the Senator be willing to share the text of the amendment with the managers?

Mr. HARKIN. Right now.

Mr. LEVIN. Will the Senator be able to go immediately after the disposition of the Lautenberg amendment, which would be about 2 o'clock, or 1:30 or 2?

Mr. HARKIN. Yes. Around 1:30. Yes, I can do that.

Mr. LEVIN. It may be later than 2.

Mr. REID. He is not going to start until quarter to 2.

Mr. LEVIN. It would be about 2:30 or quarter to 3. Would the Senator from Iowa be able to do it in that time period?

Mr. HARKIN. I will make time to do it.

Mr. WARNER. We thank the Senator from Iowa for that cooperation because, frankly, we don't know of many more amendments. We are nearing the end.

Mr. REID. Following Senator LAUTENBERG, could I modify my request for him to be next in order?

Mr. WARNER. There is no objection on this side.

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

Mr. WARNER. I appreciate the patience of the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, I thank the two leaders of our committee who have been so accommodating and so gracious to work this out.

AMENDMENT NO. 766

Mr. NELSON of Florida. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. WARNER, and Mr. LEVIN, proposes an amendment numbered 766.

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

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

The amendment is as follows:

(Purpose: To require a specific authorization of Congress for the commencement of the engineering development phase or subsequent phase of a Robust Nuclear Earth Penetrator)

At the end of subtitle B of title XXXI, add the following:

SEC. 3135. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF CONGRESS FOR COMMENCEMENT OF ENGINEERING DEVELOPMENT PHASE OR SUBSEQUENT PHASE OF ROBUST NUCLEAR EARTH PENETRATOR.

The Secretary of Energy may not commence the engineering development phase (phase 6.3) of the nuclear weapons development process, or any subsequent phase, of a Robust Nuclear Earth Penetrator weapon unless specifically authorized by Congress.

Mr. NELSON of Florida. Madam President, this amendment brings symmetry to the bill by our action earlier this morning. Senator WARNER had an amendment agreed to which said the Congress should authorize the production of a low-yield nuclear weapon. In other words, the Congress was going to have to step in if we were going to make a major step in the production of a new nuclear weapon from our present policy of years standing and of not producing any new kinds of nuclear weapons. That was agreed to earlier with regard to a low-yield nuclear weapon under the philosophy recognizing that the United States is trying to keep proliferation of nuclear weapons down, and that once you start letting that nuclear genie out of the bottle, it is very hard to reverse. That was the theory upon which the earlier amendment was agreed to.

So, too, the amendment I sent to the desk, cosponsored by the two leaders of our committee, will require the Congress to authorize any production of a robust nuclear earth penetrator. A nuclear weapon would have to be modified to go into this new robust earth penetrator. That is a decision reserved to the Congress and its authorization for such a weapon to go from the research stage to the production stage.

I urge adoption of the amendment.

Mr. WARNER. Madam President, I join in this amendment. It had been my intention to add the second-degree amendment to the amendment we just voted on. I so indicated to my colleagues on this side, recognizing I think it is a benefit for the amendment to originate by our distinguished colleague and member of the committee from Florida on this side of the aisle. This makes ''parallel'' almost to the exact word treatment of both of these initiatives with regard to nuclear weapons in the current 2004 authorization bill.

I commend the Senator. I urge its adoption.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I very much support this effort on the part of the Senator from Florida. It is a very precise, straightforward, and short amendment. The language has great meaning. The Secretary of Energy is not allowed, under this language, to commence the engineering development phase of a robust nuclear earth penetrator without specific authority of the Congress. Each word has meaning. There are not a lot of words in this amendment. It is one of the shortest amendments we have seen around here. But every single word in that amendment has meaning.

I thank not just my good friend from Florida but also the Senator from Virginia because they have really made a constructive contribution to this entire debate by supporting this approach. It is not as strong as some of us would have liked, but it nonetheless is very clear and very specific and says you may not proceed to engineering development unless Congress specifically authorizes that action. It is a significant improvement of the bill.

Mr. WARNER. Madam President, the modesty of my distinguished colleague sometimes is overwhelming. The concept of this language which he described and written in the King's English originated with him in the course of the markup of our bill. I then plagiarized it for the purpose of earlier legislation. I don't know whether the Senator from Florida has plagiarized it. But we owe him a great debt. I am so glad we had the early discussion today about the clarity of certain statutes and that the Senator recognized this one speaks with great clarity. That is why it prevailed on our side.

I urge its adoption.

Mr. LEVIN. I thank the Senator for his generosity. His mind works extremely clearly and extremely quickly. However, the good Senator from Florida deserves much of the credit because he has been taking the lead in a whole lot of these areas. I thank both of them.

The PRESIDING OFFICER (Mr. CHAMBLISS). Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 766) was agreed.

Mr. WARNER. Mr. 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 Florida.

AMENDMENT NO. 767

Mr. NELSON of Florida. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. WARNER, and Mr. LEVIN, proposes an amendment numbered 767.

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

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

The amendment is as follows:

(Purpose: To require a study on the application of technology from the Robust Nuclear Earth Penetrator Program to conventional hard and deeply buried target weapons development programs)

At the appropriate place in Title XXXI in the bill add the following new section:

SEC.—

(a) FINDINGS.—Much of the work that will be carried out by the Secretary of Energy in the feasibility study for the Robust Nuclear Earth Penetrator will have applicability to a nuclear or a conventional earth penetrator, but the Department of Energy does not have responsibility for development of conventional earth penetrator or other conventional programs for hard and deeply buried targets.

(b) PLAN.—The Secretary of Energy and the Secretary of Defense shall develop, submit to Congress three months after the date of enactment of this act, and implement, a

plan to coordinate the Robust Nuclear Earth Penetrator feasibility study at the Department of Energy with the ongoing conventional hard and deeply buried weapons development programs at the Department of Defense. This plan shall ensure that over the course of the feasibility study for the Robust Nuclear Earth Penetrator the ongoing results of the work of the DOE, with application to the DOD programs, is shared with and integrated into the DOD programs.

Mr. NELSON of Florida. Mr. President, basically we have in the authorization bill the ability to conduct this study that has been ongoing for the last year and a half about the robust nuclear earth penetrator. There is a certain sum of money in the underlying bill that allows the conduct of that study to continue.

What we raised in the committee was the fact that a robust earth penetrator may well be in the interest of the United States, that it contain a conventional weapon as opposed to a nuclear weapon. So the attempt of this amendment is to clarify that the research that will be conducted by the Department of Energy, with regard to the modification of a nuclear weapon that would go in the earth penetrator, that the research will be coordinated with the Department of Defense in their conduct and research of an earth penetrator that includes a conventional weapon.

I urge adoption of the amendment, Mr. President.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER. Mr. President, I wish to endorse the amendment because it has a very sound predicate, a very sound philosophy; namely, that we should do everything possible to channel all of our scientific efforts toward not using a nuclear weapon, and this does just that.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I very much support the amendment for the reasons given by the Senator from Virginia. I commend our good friend from Florida for his initiative.

The PRESIDING OFFICER. Is there any further debate?

There being none, the question is on agreeing to the amendment.

The amendment (No. 767) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we thank our colleague from West Virginia. He has shown us the usual senatorial courtesy to allow the managers to move timely amendments.

The distinguished Senator from West Virginia is recognized now for a period of 20 minutes. I thank him very much.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the two managers of the bill, Mr. WARNER and Mr. LEVIN, for the very professional, highly dignified manner in which they have conducted their work on this bill. I thank them for the many hours they spend in the committee, which they so ably chair and act within as ranking member.

Mr. WARNER. Mr. President, could I just say, I appreciate the expression of those remarks by our senior colleague. Senator LEVIN and I are in our 25th year—that is a quarter of a century—in the Senate. Throughout that period of time, the Senator from West Virginia has been a tutor, and we have learned much. To the extent we may have progressed in our learnings, it is owing in part to his teachings. I thank the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, I am deeply grateful for those unmerited and highly charitable remarks from the distinguished Senator from Virginia.

Mr. LEVIN. Mr. President, I hate to interrupt our dear friend and mentor from West Virginia but I must do so just to tell him that those remarks of our dear friend from Virginia were merited, indeed.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Michigan.

IRAQ

Mr. President:

Truth, crushed to earth, shall rise again,
The eternal years of God are hers;
But Error, wounded, writhes in pain,
And dies among his worshippers.''

Truth has a way of asserting itself despite all attempts to obscure it. Distortion only serves to derail it for a time. No matter to what lengths we humans may go to obfuscate facts or delude our fellows, truth has a way of squeezing out through the cracks, eventually.

But the danger is that at some point it may no longer matter. The danger is that damage is done before the truth is widely recognized and realized. The reality is that, sometimes, it is easier to ignore uncomfortable facts and go along with whatever distortion is currently in vogue. We see a lot of this today in politics. I see a lot of it—more than I ever would have believed—right on this Senate floor.

Regarding the situation in Iraq, it appears to this Senator that the American people may have been lured into accepting the unprovoked invasion of a sovereign nation, in violation of longstanding international law, under false premises.

There is ample evidence that the horrific events of September 11 have been carefully manipulated to switch public focus from Osama bin Laden and al-Qaida who masterminded the September 11 attacks, to Saddam Hussein who did not. The run up to our invasion of Iraq featured the President and members of his Cabinet invoking every frightening image that they could conjure, from mushroom clouds, to buried caches of germ warfare, to drones poised to deliver germ laden death in our major cities. We were treated to a heavy dose of overstatement concerning Saddam Hussein's direct threat to our freedoms. The tactic was guaranteed to provoke a sure reaction from a nation still suffering from a combination of post traumatic stress and justifiable anger after the attacks of 9/11. It was the exploitation of fear. It was a placebo for the anger.

Since the war's end, every subsequent revelation which has seemed to refute the previous dire claims of the Bush administration has been brushed aside. Instead of addressing the contradictory evidence, the White House deftly changes the subject. No weapons of mass destruction have yet turned up, but we are told that they will in time. And perhaps they yet will. But, our costly and destructive bunker busting attack on Iraq seems to have proven, in the main, precisely the opposite of what we were told was the urgent reason to go in. It seems also to have, for the present, verified the assertions of Hans Blix and the inspection team that he led, which President Bush and company so derided. As Blix always said, a lot of time will be needed to find such weapons, if they do, indeed, exist. Meanwhile bin Laden is still on the loose out there somewhere and Saddam Hussein has come up missing.

The administration assured the U.S. public and the world, over and over and over again, that an attack was necessary to protect our people and the world from terrorism. It assiduously worked to alarm the public and to blur the faces of Saddam Hussein and Osama bin Laden until they virtually became one.

What has become painfully clear in the aftermath of war is that Iraq was no immediate threat to the United States, and many of us here said so before the war. Ravaged by years of sanctions, Iraq did not even lift an airplane against us. Saddam Hussein could not even get an airplane off the ground. Iraq's threatening death-dealing fleet of unmanned drones about which we heard so much morphed into one prototype made of plywood and string. Their missiles proved to be outdated and of limited range. Their army was quickly overwhelmed by our technology and our well trained troops.

Presently our loyal military personnel continue their mission of diligently searching for weapons of mass destruction. They have so far turned up only fertilizer, vacuum cleaners, conventional weapons, and the occasional buried swimming pool. They are misused on such a mission and they continue to be at grave risk. I am talking about the sons and daughters of the American people. The Bush team's extensive hype of WMD in Iraq as justification for a preemptive invasion has become more than embarrassing. It has raised serious questions about prevarication and the reckless use of power. Were our troops needlessly put at risk? Were countless Iraqi civilians—women, children—killed and

maimed when war was not really necessary? Was the American public deliberately misled? Was the world?

What makes me cringe even more is the continued claim that we are ''liberators.'' Vice President CHENEY, 3 days before the war, said we will be welcomed as liberators. The facts don't seem to support the label we have so euphemistically attached to ourselves. True, we have unseated a brutal, despicable despot, but ''liberation'' implies the followup of freedom, self-determination and a better life for the common people of the invaded country. In fact, if the situation in Iraq is the result of ''liberation,'' we may have set the cause of freedom back 200 years.

Despite our high-blown claims of a better life for the Iraqi people, water is scarce, and often foul; electricity is a sometime thing; food is in short supply; hospitals are stacked with the wounded and maimed. Historic treasures of the region and of the Iraqi people have been looted, and nuclear material may have been disseminated to heaven knows where, while U.S. troops, on orders, looked on and guarded the oil supply. That is what they were told to do.

Meanwhile, lucrative contracts to rebuild Iraq's infrastructure and refurbish its oil industry are awarded to administration cronies, without benefit of competitive bidding, and the United States steadfastly resists offers of U.N. assistance to participate. Is there any wonder that the real motives of the U.S. Government are the subject of worldwide speculation and mistrust?

And in what may be the most damaging development, the U.S. appears to be pushing off Iraq's clamor for self-government. Jay Garner has been summarily replaced, and it is becoming all too clear that the smiling face of the U.S. as liberator is quickly assuming the scowl of an occupier. The image of the boot on the throat has replaced the beckoning hand of freedom. Chaos and rioting only exacerbate that image, as U.S. soldiers try to sustain order in a land ravaged by poverty and disease. ''Regime change'' in Iraq has so far meant anarchy, curbed only by an occupying military force and a U.S. administrative presence that is evasive about if and when it intends to depart.

Democracy and freedom cannot be force fed at the point of an occupier's gun. To think otherwise is folly. One has to stop and ponder. How could we have been so impossibly naive? How could we expect to easily plant a clone of U.S. culture, values, and government in a country so riven with religious, territorial, and tribal rivalries, so suspicious of U.S. motives, and so at odds with the galloping materialism which drives the western-style economies?

As so many warned this administration before it launched its misguided war on Iraq, there is evidence that our crackdown in Iraq is likely to convince 1,000 new bin Ladens to plan other horrors of the type we have seen in the past several days. Instead of damaging the terrorists, we have given them new fuel for their fury. We did not complete our mission in Afghanistan because we were so eager to attack Iraq. Now it appears that al-Qaida is back with a vengeance. We have returned to orange alert in the U.S., and we may well have destabilized the Mideast region, a region we have never fully understood. We have alienated friends around the globe with our dissembling and our haughty insistence on punishing former friends who may not see things quite our way. The path of diplomacy and reason have gone out the window to be replaced by force, unilateralism, and punishment for transgressions. I read most recently with amazement our harsh castigation of Turkey, our longtime friend and strategic ally. It is astonishing that our Government is berating the new Turkish government for conducting its affairs in accordance with its own Constitution and its democratic institutions.

Indeed, we may have sparked a new international arms race as countries move ahead to develop WMD as a last ditch attempt to ward off a possible preemptive strike from a newly belligerent U.S. bully which claims the right to hit where and when it wants. In fact, there is little to constrain this President. This Congress, in what will go down in history as its most unfortunate and spineless and thoughtless act, gave away its power to declare war for the foreseeable future and empowered this President to wage war at will, and not only this President, but also future Presidents.

The amendment that I offered to sunset this nefarious handover of power was rejected by the Senate and garnered only 31 votes. I was amazed, and I am still amazed, that this Senate would reject an amendment to sunset a thoughtless, nefarious, spineless act on the part of this same Senate to hand over this power to declare war to this President. I cannot believe that the Senate did that. Even now, I cannot believe it. It is abhorrent that the Senate would have rejected the sunset provision. So, as it is, there is no sunset. That power goes on after this President. The next President will have the same power, unless Congress steps in and changes the law. Of course, a President can veto a change in the law and that veto, as students of the Constitution will know, will require a two-thirds vote to override. It is hard to believe that grown, sensible men and women would reject that sunset provision—to say nothing of having voted to shift this power over to any President, whether he is a Democrat or Republican.

As if that were not bad enough, members of Congress are reluctant to ask questions which are begging to be asked. How long will we occupy Iraq? We have already heard disputes on the numbers of troops that will be needed to retain order. What is the truth? How costly will the occupation and the reconstruction be? No one has given a straight answer. How will we afford this long-term, massive commitment, fight terrorism at home, address the serious crisis in domestic health care, afford behemoth military spending, and give away billions in tax cuts amidst a deficit which has climbed to over $340 billion for this year alone? If the President's tax cut passes, it will be $400 billion. We cower in the shadows while false statements proliferate. We accept soft answers and shaky explanations because to demand the truth is hard, or unpopular, or may be politically costly.

But I contend that, through it all, the people know. The American people, unfortunately, are used to political shading, political spin, and the usual chicanery they hear from public officials. They patiently tolerate it up to a point. But there is a line. It may seem to be drawn in invisible ink for a time, but eventually it will appear in dark colors tinged with anger. When it comes to shedding American blood, and when it comes to wreaking havoc on civilians, on innocent women, men, and children, callous dissembling is not acceptable. Nothing is worth that kind of lie—not oil, not revenge, not reelection, not somebody's grand pipe dream of a democratic domino theory.

Mark my words, the calculated intimidation which we see so often of late by the ''powers that be'' will only keep the loyal opposition quiet for just so long because, eventually, like it always does, the truth will emerge. And when it does, this house of cards, built of deceit, will fall!

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I commend my colleagues who serve on the Senate Armed Services Committee and their staffs for the superb work done on the bill before us today. The bill comes to the floor of the Senate at an important time in our Nation's history. We have been at war for the past 20 months, ever since the devastating attacks on September 11, 2001 brought the violence of terrorism to our own country. We have come far since then, but we have much farther to go.

Our first goal in the war on terrorism was to topple the brutal Taliban regime in Afghanistan, to destroy the camps where the al-Qaida terrorists who attacked us trained. We have done that. Our Nation's military, the finest in the world, successfully led that charge.

Today we see in Afghanistan the beginnings of a democracy. We will continue to help in the future to make sure that order is kept in Afghanistan and that it will be a part of the flourishing world community.

Our second goal was to disarm the dangerous regime of Saddam Hussein in Iraq before he could surface and use weapons of mass destruction once more against innocent civilians. We have done that. Again, our brave men and women in uniform successfully

achieved that important goal in an astounding 3 weeks. It was a charge that was lightning fast in its speed and thunderous in its conclusion. Now we are working with other nations and world bodies to guide the Iraqi people toward stability. In our quest to unearth Saddam Hussein's weapons of mass destruction, we are digging up mass graves of thousands of innocent people whom Saddam Hussein put to death for opposing him.

Mr. President, we may not have found the weapons of mass destruction yet, but we have found horrifying mass graves that show the world the grim importance of our success in Operation Iraqi Freedom.

The bill before us provides our brave soldiers, sailors, airmen, marines, and their families with the important tools they need to continue the vital work they are doing.

Whether they are active duty or reservists or members of the National Guard, they are the ones who must continue the global fight against terrorism and against nations ruled by despots who develop or possess weapons of mass destruction.

I commend my colleagues for authorizing a military pay raise in this bill that provides a 3.7-percent across-the-board increase and for an additional raise targeted for experienced midcareer personnel, ranging from 5.25 to 6.25 percent.

I commend the committee for establishing incentive pay in the amount of $100 per month for service members who are serving in the Republic of Korea. One need look no further than the news headlines on any given day to appreciate the stability our presence has on the Korean peninsula to keep in check the totalitarian regime in North Korea.

I am also glad to see this bill increase family separation pay from $100 to $225 per month and increased pay for imminent danger or hostile fire from $150 to $225 per month. This is not enough, and anyone listening or who will read this will say it is not enough. It is not. But it is one more thing we can do to show people who are making these sacrifices that we want to compensate them in every way we possibly can for a debt we know we will never really be able to repay.

I was also pleased the committee agreed to continue the development of the Joint Strike Fighter aircraft in the amount of $4.4 billion. There is no question the Joint Strike Fighter is the fighter of the future, and it will keep America preeminent in defenses for whenever we may need them in whatever place and in whatever way.

I also thank my colleagues on the committee for including the Bipartisan Commission on the Review of the Overseas Military Structure of the United States. That is a long way of saying that we are going to look at foreign bases, as well as American bases, as we are making the transition for our Department of Defense into the security assessment that we face today.

This is a bill I introduced with Senator DIANNE FEINSTEIN of California. I am the chairman of the Military Construction Subcommittee of the Appropriations Committee. Senator FEINSTEIN is the ranking member. In looking at military construction, as we have, and the issues facing us with military construction for American bases versus foreign bases, it occurred to us that the Department of Defense is in a huge transition now, trying to assess the threats we have and the different kinds of threats we have been seeing since 9/11, and we have not kept up in military construction requests.

As we have seen in Afghanistan and Iraq, the cold war concept guiding the overseas basing for the U.S. military is obsolete. Yet the number, structure, and scope of our overseas bases is still largely alive with the threat of Soviet aggression. The process of when, how, and why we base troops abroad is in need of a thorough examination to assure that our basing structure is adequate for the new security environment. This legislation will assess every overseas installation.

During the cold war, our primary military mission was to defend our Nation and our allies from the symmetric Soviet threat of aggression, and ''boots on the ground'' in Europe and Asia allowed us to do that. Even though the cold war has been over for a decade, our Nation still has 112,000 troops in Europe, 37,000 in Korea, and 45,000 in Japan, largely in installations designed, devised, and intended for the threats of an earlier era.

Training constraints are evident on many of these bases. The threats we face today are asymmetrical. They are terrorist groups or rogue states gaining weapons of mass destruction. Events of the past decade, especially since 9/11, have taught us that we not only need to maintain a military presence abroad, but we need to be in a position to support contingencies where we have no permanent bases, such as Kosovo, Afghanistan, Africa, and throughout the Middle East.

In the final analysis, we may need more troops overseas, not fewer, but clearly the needs are different than they once were, and it is critical that the United States move beyond the cold war basing concepts. This is not simply a matter of security, although that is a sufficient concern, but also of assuring that taxpayers' dollars are well and wisely spent.

The Defense Department has requested as of right now $174 million for Korea and $284 million for Germany for new military construction next year. That is a large bill for a model in transition. In South Korea, our soldiers often serve on the same patches of ground U.S. troops occupied when the Korean war ended in 1953.

Today, these training areas are inadequate to accommodate the extended reach of our weapons and the rapid pace of modern maneuver warfare. In fact, more than 7,000 U.S. troops are stationed at the Yongsan Army Garrison which was built by the colonial Japanese Army before World War II.

In Grafenwoehr, Germany, our troops train on tank and artillery ranges used by the Bavarian Army over 100 years ago. The army has poured hundreds of millions of dollars into the complex in the past decade, even though the best training area consists of 18,000 acres of land, a postage stamp compared to the 400,000 acres of maneuver area and ranges available at the National Training Center in California, or the more than 1 million acres at Fort Bliss's MacGregor Range on the Texas-New Mexico border.

Further complicating matters, the Defense Department is preparing for another round of domestic base closures in 2005. As we scrutinize stateside military installations, we must take a look at our worldwide structures as well.

To make sure we get the answers to these questions right, our bipartisan legislation that Senator FEINSTEIN and I introduced and is included in this bill would create a congressional commission to take an objective and thorough look at our overseas basing structure.

The commission will consider criteria to determine whether our bases are prepared to meet our needs in the 21st century. It will be comprised of national security and foreign affairs experts who will provide a comprehensive analysis of our worldwide base and force structure to the 2005 domestic Base Realignment and Closure Commission.

We certainly want to work with the Pentagon. This is a timely review. Some in the Pentagon have suggested that the 2005 BRAC could result in the closure of one in every four domestic bases. But if we are going to reduce our presence overseas, we will certainly need stateside bases to station returning troops.

It is senseless to close bases in the United States only to later realize we made a costly and irrevocable mistake, a painful lesson we learned in the last rounds of closures.

Our national security strategy is shifting to take on the new threats facing our Nation. The position of U.S. troops around the globe must reflect that thinking.

I appreciate what the committee did in including this legislation that Senator FEINSTEIN and I introduced. It will be a major component of a future BRAC, and I hope a major part of the thinking at the Pentagon about what our threats are and where we need troops to be able to address those threats.

AMENDMENT NO. 763

Mrs. HUTCHISON. Mr. President, I have an amendment at the desk, No. 763, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 763.

Mrs. HUTCHISON. 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 add availability of family support services to the matters required to be included in the report on the conduct of Operation Iraqi Freedom in section 1023)

On page 273, between lines 17 and 18, insert the following:

(P) The results of a study, carried out by the Secretary of Defense, regarding the availability of family support services provided to the dependents of members of the National Guard and other reserve components of the Armed Forces who are called or ordered to active duty (hereinafter in this subparagraph referred to as ''mobilized members''), including, at a minimum, the following matters:

(i) A discussion of the extent to which cooperative agreements are in place or need to be entered into to ensure that dependents of mobilized members receive adequate family support services from within existing family readiness groups at military installations without regard to the members' armed force or component of an armed force.

(ii) A discussion of what additional family support services, and what additional family support agreements between and among the Armed Forces (including the Coast Guard), are necessary to ensure that adequate family support services are provided to the families of mobilized members.

(iii) A discussion of what additional resources are necessary to ensure that adequate family support services are available to the dependents of each mobilized member at the military installation nearest the residence of the dependents.

(iv) The additional outreach programs that should be established between families of mobilized members and the sources of family support services at the military installations in their respective regions.

(v) A discussion of the procedures in place for providing information on availability of family support services to families of mobilized members at the time the members are called or ordered to active duty.

Mrs. HUTCHISON. Mr. President, as I have traveled across Texas and visit military bases, I have met with many military members and their families. The feedback I have received from the members and the spouses was that the military services provided wonderful family support during the conflict in Afghanistan and Iraq.

I also heard that some family members who were deployed, particularly from the National Guard and Reserve, need better access to family support resources at the nearest military base. Because many Guard and Reserve personnel do not live where they serve, family members do not get to develop the relationships with the nearest family support service, and if it is provided by a different military service or component, than their own, it is a special hardship.

To work toward ensuring that families of our Guard and Reserve personnel are adequately served, I have introduced an amendment that requires the Secretary of Defense to include in his report on the conduct of Operation Iraqi Freedom a study of family support services provided to the dependents of National Guard and other Reserve components of the Armed Forces who are called to active duty.

This amendment requires the Secretary to address the extent to which interservice cooperative agreements are in place to support dependents of mobilized members, regardless of the member's service or if they are a member of the National Guard or Reserve, and to outline what additional outreach programs should be established to support dependents in the region of an existing military base or post.

It also asks the Department of Defense to identify additional resources necessary to ensure that adequate family support services are available to dependents of mobilized members at the nearest military installation to the residence of the dependents.

Family support access is one key lesson that we are learning from the frequent and extended mobilization of members of the National Guard and Reserve to help fight our ongoing wars. We never intended to use our Guard and Reserve this much. It is important to note that their families also serve through their sacrifices and commitment, and approving this amendment is the least we can do to help them.

I ask for a vote on the amendment, but I also want to say that because of the constraints put forward about the relevancy of amendments, I ask the distinguished chairman and ranking member if they would work with me in conference to give this amendment the direction that it originally had. It is now part of a report. It would not cost anything, but it would hopefully eventually direct the Department of Defense to establish these communication systems so our Guard and Reserve families will have the same access to support services when they are on active duty that an active-duty person's family would have.

So I ask for that commitment from the distinguished chairman to work with me in conference to give that direction and then I will ask for a vote.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I say to our distinguished colleague, I compliment her on the need to have more focus on these very important subjects regarding families. As I listened, I harkened back to my days and the composition of the Armed Forces in World War II and Korea. Far less than half were family. Today, three-quarters are family. The Army—and I expect other services but I have certainly heard in the Army—today they call it a family army. As we marched along this road to where, say, three-quarters now are hopefully blessed by a strong family background, I guess we have not kept apace with those matters which the Senator has enunciated today.

So speaking for myself, I certainly indicate that I will work closely with the Senator, and knowing the interest of my good friend and colleague from Michigan in this area, I can assume we will work together to strengthen the concepts in the report.

Mrs. HUTCHISON. I thank the chairman very much for that comment. I think the Senator is right. People do not realize that the makeup of our Armed Forces is much different today demographically than it was in the past. There are more families. There are two-service families, and it used to be mostly single people. So we have had to make accommodations which I think the distinguished chairman and ranking member and the committee have done in many areas, such as in health care. We did not have to have pediatricians as a reliable component of health care in the military so much in the past as we do now, or OB/GYN, but those are the issues we must address today.

I am pleased the Senator is doing so, and I hope we will all work together.

Mr. WARNER. Mr. President, I thank our colleague. Back in prehistoric times when I joined the Marines, on the first day you were issued your rifle and the second day they told you if you were contemplating a wife, you bad better wait. The Marine Corps would issue that, too, at the appropriate time. So things have changed.

Mrs. HUTCHISON. Things have changed for sure.

If the ranking member would also work with, that would be very much appreciated.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I commend the Senator from Texas for this amendment. I have, as recently as last weekend been reminded about the role of families as I joined hundreds of families and family members in welcoming home the National Guardsmen and Reserve officers from their tour of duty in Iraq. I was in Battle Creek, MI, to receive back the 110th Tactical Fighter Wing. The contribution of our Guard and Reserve is more and more relied upon, I agree with the Senator, to too great an extent. We have to do something about that.

In the meantime, families are at the center of this effort and we must do more for families. I know the chairman of our committee will seek to protect the language we are adding and enhance it in conference, and I will join him in that effort.

Mrs. HUTCHISON. I thank the Senator.

Mr. WARNER. Mr. President, as so many Members in the past few months, we have experienced moments of joy and moments of sorrow, sorrow in attending funerals for those who paid the ultimate price in our engagements in Afghanistan and Iraq. Members have attended those funerals and there we see the family in a way that brings to mind the importance of, up until that moment did we give them the care they deserved? And are we now giving them the care they need after the loss of their uniformed member?

Mrs. HUTCHISON. Mr. President, I say to the distinguished chairman of the committee, I think the committee went a long way toward exactly the point we are making, and that is we will never be able to repay fully those family members who have lost their loved ones.

I have talked to a mother who lost her only son, and she had lost her husband. She has nothing else left in life. There are many stories like that. But the chairman has gone a long way toward trying to compensate in the only way Congress can, by adding money for support services, adding money for the hardships, making sure health care is better, doing what we can do in Congress, though we know from our hearts we will never repay these people in totality. We cannot. We do want them to know that with the monetary compensation and the benefits we are giving, there is a deep respect for what they have done for our country that will last throughout eternity.

Mr. WARNER. Mr. President, I thank our distinguished colleague. She very much was active in the work of the committee. In years past, she was on the committee. She has not left it in a sense because the Senator gave us the encouragement to put in a number of these measures. So I thank my colleague.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. I find that the Senate is heavily engaged in committee meetings and briefings, and if it is agreeable to the Senator from Texas, I suggest we do a voice vote. Is that acceptable?

Mrs. HUTCHISON. That would be acceptable.

Mr. WARNER. Would that be acceptable to the Senator from Michigan?

Mr. LEVIN. Yes.

The PRESIDING OFFICER. The question is on agreeing to the Hutchison amendment No. 763.

The amendment (No. 763) was agreed to.

Mr. WARNER. Mr. 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 New Jersey.

AMENDMENT NO. 722

Mr. LAUTENBERG. Mr. President, I call up amendment No. 722 which is at the desk.

I want to be sure we have an understanding as to the time distribution. I ask the manager of the bill if an agreement has been entered.

The PRESIDING OFFICER. No unanimous consent exists with respect to time.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] for himself, Mr. JEFFORDS, Mr. AKAKA, and Mr. LIEBERMAN, proposes an amendment numbered 722.

Mr. LAUTENBERG. 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 modify requirements applicable to the limitation on designation of critical habitat for conservation of protected species under the provision on military readiness and conservation of protected species)

On page 48, beginning on line 16, strike ''if the Secretary determines that'' and all that follows through page 48, line 20, and insert the following: ''if the Secretary of the Interior determines in writing that—

''(1) the management activities identified in the plan will effectively conserve the threatened species and endangered species within the lands or areas covered by the plan; and

''(2) the plan provides assurances that adequate funding will be provided for such management activities.

Mr. LEVIN. Will the Senator yield for a unanimous consent agreement which I believe the Senator is interested in.

Mr. LAUTENBERG. I yield.

Mr. WARNER. I ask unanimous consent there be a time limitation of 60 minutes equally divided in the usual form with debate on the Lautenburg-Jeffords amendment No. 722 prior to a vote in relation to the amendment, and that no other amendments be in order prior to a vote in relation to the amendment.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

Mr. LAUTENBERG. I thank the managers.

The amendment is cosponsored by Senator JEFFORDS. I ask unanimous consent also that Senators AKAKA and LIEBERMAN be added as cosponsors.

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

Mr. LAUTENBERG. Madam President, this bill would exempt the Department of Defense from respecting critical habitat for endangered species on its lands. This provision of the bill is flawed for three reasons.

One, it would severely weaken our country's efforts to protect endangered species. There is a lot of effort that has gone into developing legislation in protecting endangered species. Seeing them disappear is a painful recognition. We are now beginning to see species disappear from our oceans, the Atlantic Ocean. The newspapers have been featuring stories about the disappearance of species like cod, halibut, and blue marlin. We have to be careful because each of these affects the rest of the ecology. That could be disastrous.

Second, this action is simply not necessary to maintain our military readiness. An example is the dispute over Vieques Island in Puerto Rico, the territory off the mainland of Puerto Rico.

Third, it ignores the Defense Department's long record of successfully balancing readiness and conservation. We want to do both.

Protecting critical habitat has long been an essential tool that Federal, State, and local jurisdictions have used to protect endangered species. When endangered species have no place to live, they perish. The bill before the Senate would allow the Defense Department to ignore the Endangered Species Act in favor of using something called the Integrated Natural Resources Management Plan, called INRMP, for threatened and endangered species. INRMPs are not subject to the same strong standards as those under the Endangered Species Act.

Under this bill, no area could be designated a critical habitat on DOD property. No matter how threatened the species, no matter what is found on the land, it will not be strongly protected.

It is conceivable that the Defense Department could make this decision under that program, even if it is not needed, for them to conduct their exercises or their duties. The species have to be protected.

My amendment is a reasonable approach. It adds two protections to reinforce the effectiveness of the INRMP plans. First, the Secretary of the Interior must determine that the plan would conserve a threatened or endangered species, that it has to make sure we try our best to have that species endure. Second, there must be sufficient funding to implement these plans.

By applying this two-part standard, DOD could continue to maintain its historical success, balancing conservation and military readiness. This type of approach does work.

Only two species have gone extinct after being put on the endangered species list, while over 600 species not on the list have gone extinct during that time.

DOD has 25 million acres of land that are home to 300 federally listed, threatened, and endangered species. The Department of Defense has played a crucial role in preventing these species from sliding into extinction. It is not suggested anywhere that they want these things to happen, but we have a disagreement on what it will take to keep the species alive.

Camp Pendleton in California is a good example of how the balance has worked on the ground. Of 18 species listed as threatened and endangered on the 125,000 acres, critical habitat has been recommended for only 5 of those threatened species. Yet using the flexibility built into the Endangered Species Act, the Fish and Wildlife Service decided to restrict less than 1 percent of all potential training areas from use for training exercises.

In his testimony before the Armed Services Committee last March, GEN Nyland, Assistant Commandant for the Marine Corps, agreed that codifying an effectiveness test for the INRMPs would provide DOD with greater certainty in its decisionmaking. That is the purpose of this amendment.

The American people have also spoken on this issue. We should listen. According to a recent Zogby poll, 85 percent of registered voters believe the

Defense Department should follow the same environmental laws as everyone else. The two-part test in my amendment will help assure that DOD continues to do its part in conserving endangered species.

As I said before, I think they really want that to happen. The question is what the approach is going to be. The issue is about balancing national security with our environmental security and the Pentagon has shown in the past that we can do it. I urge my colleagues to support my amendment.

From our half hour of time, I yield 10 minutes to the Senator from Vermont.

Mr. JEFFORDS. Like many of my colleagues, I am a veteran. I have the greatest respect for those who serve this Nation. I served the Naval Reserves for 30 years and was on active duty in the Navy in the 1950s. My ship, the *McNair,* was the first U.S. military ship to navigate the Suez Canal after the Egyptians took control of the canal in 1955. I am a member of the Veterans of Foreign Wars, the VFW.

Like every Senator, I am concerned about our troops on our military bases in the States and throughout the world. I want them to have every advantage as they prepare for and engage in military conflict.

However, sweeping changes to environmental laws, even with changes that are proposed during the time our country is at war, should be considered by the Environment and Public Works Committee. Our committee is charged with understanding the implications of change in these laws as well as the need for change and to weigh the consequences to public health and the environment.

As our distinguished colleague who chairs the Armed Services Committee observed in a recent hearing in our Committee, these laws have taken years to put in place.

However, Section 322 of S. 1050, the National Defense Authorization Act for Fiscal Year 2004 contains a provision that would change how critical habitat is designated under the Endangered Species Act, a law within the jurisdiction of the Environment and Public works Committee.

Section 322 prohibits the Secretary of the Interior from designating critical habitat on any Department of Defense lands that have an integrated natural resources management plan, known as INRMP, prepared under the Sikes Act, if the Secretary determines that the plan addresses special management consideration, or protection.

The INRMP provisions of the Sikes Act were never intended to be a substitute for the Endangered Species Act, but rather a complement to it.

As a complementary conservation measure, INRMP is not subject to the same rigorous implementation requirements as conservation measures taken under the Endangered Species Act, such as being based on the ''best available science.''

INRMPs are often substandard compared to the ESA, and the required INRMP components under the Sikes Act cannot be universally relied upon to accomplish species conservation goals.

In addition, Section 7(j) of the Endangered Species Act already allows the law's requirements to be waived, at the request of the Secretary of Defense, when national security concerns outweigh those of species conservation. To date, no Secretary of Defense has ever utilized this flexibility in the Act. Granting a blanket exemption to the ESA removes the ability for decisions to be made on a case by case basis when national security concerns are real.

After hearings in the Environment and Public Works Committee both last year and this year, on this issue and the other DOD proposals within the jurisdiction of the EPW Committee, I do not believe the case has been made to warrant these changes to existing law.

However, the bill before us contains a provision that would substantially change the way critical habitat is protected on Department of Defense lands.

The amendment offered by myself and Senators LAUTENBERG and AKAKA will help to ensure that important protections underlying the Endangered Species Act will not be lost under the integrated natural resource management plans developed under the Sikes Act and this Defense Authorization bill.

The amendment would require that the Secretary of the Interior determine in writing that the Integrated Natural Resources Management Plan will effectively conserve the threatened and endangered species covered by the plan and assure that adequate funding is provided for the management activities.

This means that if land is needed for a species and military training, the Secretary of the Interior will review the Defense Department's plan for managing the lands and funding the management activities to make sure that species will be adequately protected.

The Department of Defense and the Department of the Interior have been working together to balance needs of the military for training with the needs of endangered species for survival. This amendment affirms that balance.

It is my hope that the two agencies will continue to work cooperatively and I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Madam President, I yield to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I rise today in support of the Lautenberg-Jeffords amendment to establish minimum criteria for whether an Integrated Natural Resource Management Plan or INRMP for a military installation provides sufficient protection for endangered species to make a critical habitat designation unnecessary. As I have previously stated, I commend the chairman of the Readiness Subcommittee for the manner in which he handled this difficult issue. We had two very good hearings to address the Department's proposal.

I am particularly appreciative that the provision in this bill takes a case-by-case approach to the Endangered Species Act instead of providing the blanket exemption sought in the administration proposal. I believe the provision fall short, however, of codifying the existing case-by-case approach.

During the Committee's consideration of this bill, I offered an amendment which would have codified the case-by-case approach by including minimum criteria for INRMPs on military lands. Unfortunately, my amendment was defeated. I am pleased to join Senators LAUTENBERG and JEFFORDS in this amendment which, I believe, provides the necessary criteria to be included in INRMPs for military lands in order for the Secretary of the Interior to determine that the designation of critical habitat is unnecessary.

As the ranking member of the Readiness Subcommittee, I remain committed to the readiness of our military through proper training. We have heard from the Joint Chiefs of Staff that our Armed Forces are more ready today than they have been before. Our military has found ways to comply with applicable laws by working with neighboring communities, state and local officials. I firmly believe that this approach provides the Department of Defense with the necessary tools and assurances it needs to conduct training activities without unnecessarily undermining environmental provisions. I urge my colleague to support this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Madam President, I have no further requests for time. I see my chairman standing. I yield the floor.

Mr. INHOFE. Madam President, I yield myself such time as I consume.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I have been listening with great interest to the debate. I start out saying I have some similarities to the previous speaker from Vermont. I am a veteran, I should say.

Also, the reference was made to the Environment and Public Works Committee. I do agree with the Senator from Vermont that there is a jurisdiction thing there in which we are interested. However, there is also one having to do with the readiness, with the authorization bill that is under consideration now.

I can't tell you how strongly I feel about this particular amendment. This is something we have been discussing now, not for just days or weeks but for years. We have actually had several hearings. Right now, we have had some 12 hearings in the past 2 years on this subject. Some of this was when I chaired the Readiness Subcommittee of the Senate Armed Services Committee. We have had hearings there and, of course, hearings in the Environment and Public Works Committee.

I share the compliments to Senator ENSIGN, in the way he has been chairing this committee and spending the time on this very critical subject.

Let me just remind everybody that when INRMP first came along, the Integrated National Resource Management Plan, they came along not in a Republican administration, they came along in the Clinton administration. They recognized at that time the seriousness of proper training and the fact that we have a very serious problem affecting some of the environment encroachments on our limited land area. It is something that is measured, not by cost of training, not by effectiveness of training, as much as it is human lives.

The Senator from New Jersey talked about the Endangered Species Act. I spent 3 years and lost trying to stop the prohibition of live-fire training on a Navy range on land we own in Vieques. I have a background, as does the Senator from Vermont, in having gone through training. I am sure he would share this with me. When we went through training and crawled under inert fire, it was quite a bit different from crawling under live fire. This is the kind of training that I think we had in Vieques—integrated training, which we don't have today. In Kuwait, we lost five lives, four of whom were Americans. If you read the accident report, it very clearly states that we lost those lives because we didn't have adequate live-fire training. It was denied us right before that time at the range in Vieques.

I am going to talk about Camp Pendleton.

Before I do so, the Senator from New Jersey had talked about Camp Pendleton and how compatible everything has been in Camp Pendleton. He suggests that in Camp Pendleton there are some 17 miles of shoreline. We can only train in some 200 yards of that area. It is a very serious matter.

I agree that we have very well-trained troops in the field. But I also say we are not enjoying the state of readiness that our troops are entitled to have—unlimited capability of training in a live and integrated relationship.

The Lautenberg amendment would essentially gut the bill language because it would impose an unachievable standard of recovering species according to the legal definition of concern. DOD would be forced to guarantee sufficient funding to accomplish species recovery while the Department of Interior and Endangered Species Act have not been able to recover species.

This is very important. We have had since 1973—30 years—the Endangered Species Act. Yet no species have come off the list as a result of operation of the Endangered Species Act. In other words, he is putting on a test that cannot be fulfilled. In other words, we are not going to be able to have this type of training.

This is the quote from a committee hearing which we had. This was the Deputy General Counsel for Environment and Installations. It gets into the question as to how this is going to affect the training:

> With respect to the ESA, what our proposal seeks to do is to codify a policy that was adopted during the Clinton administration with respect to the INRMPs.

Then Craig Manson said:

> I concur as to the ESA provision.

The amendment is very similar to the amendment that Senator AKAKA tried to get approved in committee. Normally, Senator AKAKA and I agree on these issues. During the years when I was chairman of the Readiness Subcommittee of the Senate Armed Services Committee, and he was my ranking member, and during the years he was chairman, I was his ranking member, we normally agreed on these issues.

However, I believe the Lautenberg amendment goes much further than the Akaka amendment went because it is an amendment that gets very serious in terms of forcing something to come off the list.

The essential difference between Senator AKAKA's failed amendment in committee and Senator LAUTENBERG's amendment is a subtle but crucial difference between ''provide conservation benefit for the species,'' which Senator AKAKA wanted to do and which I can understand, and provide a conservation benefit as Senator LAUTENBERG wants to do, which is ''conserve the species.'' In other words, recover. Recovery is something that can't happen. It has never happened. I will read to you from the Endangered Species Act of 1973. It said in addressing the terms ''conserving'' and ''conservation'' that it means ''to use and use all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this act are no longer necessary. Such methods and procedures include but are not limited to all activities associated with scientific resources and management, such as research, law enforcement, habitat acquisition and maintenance promulgation, live trapping, transplanting,'' and it goes on and on.

It says you must be able to recover. As he said, never have we been able to recover a species that was actually a result of the operation of the ESA.

The Department of Defense opposes the amendment because, No. 1, the language could have perverse and unintended consequences such as depriving the Fish and Wildlife Service the flexibility to refine the conditions in light of further experience or to tailor them more specifically to diverse sites. The language would give rise to litigation.

As the chart shows, again quoting Craig Manson:

> In fact, the process of using the Integrated Natural Resources Management Plan is a collaborative process that requires the agreement of the Fish and Wildlife Service and INRMP and cannot be approved without the agreement of the Fish and Wildlife Service. The Service will continue to be involved. Habitat will continue to be afforded the protections that are necessary for the conservation of the species.

I think most of us understand. That is the seriousness that we are dealing with right now.

The next concern we have is the lawsuits which are now preventing continuation of a policy started by the implementation of the Clinton/Gore administration. And we are talking about the INRMP.

This is Jamie Irappaport Clark, the Clinton administration's Director of the U.S. Fish and Wildlife Service. He said:

> Do I believe that Integrated Natural Resource Management Plans can provide the needs for conservation of listed species? Absolutely.

This came from the Clinton administration—not from the current administration. That was the Clinton Fish and Wildlife Director, Jamie Clark, who initiated the practice and gave the testimony before our committee.

The marine field training is rated ''not combat capable'' at Camp Pendleton.

I am glad the Senator from New Jersey brought up Camp Pendleton. Camp Pendleton is a good model to use as to what we don't want to do. Camp Pendleton has all of these 17 miles of shoreline. We can only use some 200 yards. In fact, if you look at the shoreline, that 200 yards is so small that it doesn't even show up on the map. This shows the proposed critical habitat at the Marine Corps base at Camp Pendleton, 57 percent. That tells us what is happening to our training area.

What is the result of that? The encroachment impact of training degradation at Camp Pendleton in the field of ''not combat capable'' is fifty percent. Fifty percent of the training that takes place has that category of T–4, which is ''not combat capable,'' and 69 percent is ''combat capable'' for only a low threat. That is what is happening.

How does that translate into lives? We don't know. As I mentioned, we have lost lives because of a lack of training. This is one that is very serious.

The Department of Defense set out to establish quantity of data on encroachment selecting the Marine Corps base at Camp Pendleton as the subject of the study and came to the conclusion that 50 percent of that training would not be combat ready.

That is how serious this is.

More holistic than mere designation of critical habitat, the management plan we are talking about, the INRMP approach, pioneered by the Clinton-Gore administration, considers habitat, food, water, predators, noise, and many more factors.

The Fish and Wildlife Service opposed the Lautenberg amendment.

Let me conclude by saying this is very serious. I could be talking about ranges other than Pendleton. Pendleton I talked about because that was brought up by the Senator from New Jersey. In the case of Camp Lejeune, in the case of Fort Bragg in the southeastern part of the United States, we are down now to just a small portion that can be used for training.

I invite my colleagues to go down to Fort Bragg, go down to Camp Pendleton, and look and see how they are inhibited from being able to have the type of training that will really prepare them properly for combat in harm's way to which we will be sending them.

I think it is very significant. There is not an issue in this bill that is more significant now than trying to do what we can to provide good training. It has been said before—and I would have to echo it—that the military has been an excellent steward of the environment. And that is part of the problem. If you go to Fort Bragg today, after having been there 2 years ago, you see many more of these red ribbons around areas precluding them from being able to train there because of the urban sprawl and other encroachments on our training capabilities.

Our language is very good, and I would encourage us, at the time we vote, to reject the Lautenberg amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I thank our colleague from Oklahoma. I also thank our distinguished colleague from this side. It looks as if we are going to conclude this debate such that the Senate can turn to a rollcall vote at about 2:45.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, how much time is left on this side on this amendment that is now pending?

The PRESIDING OFFICER. Fourteen and a half minutes.

Mr. REID. Madam President, I ask my friend from Vermont, how much time do you need?

Mr. JEFFORDS. About 5 minutes.

Mr. REID. Would that be appropriate?

Mr. WARNER. I do want our distinguished colleague from Nevada, who is the chairman of the subcommittee——

Mr. REID. How much time does the Senator from Nevada need?

Mr. ENSIGN. Probably 7 or 8 minutes. I will try to cut it off by 2:45.

Mr. REID. Why don't we have the vote at 2:50?

Mr. WARNER. That would be helpful and enable Senators to speak.

Mr. REID. That would be 15 minutes, each having 7½ minutes.

Mr. WARNER. Fine.

Mr. REID. Madam President, while we are here, the Senator from Virginia has also said he would agree that the next amendment in order is Harkin. That is already the order, but the time on that will be one-half hour evenly divided in the usual form regarding second-degree amendments.

Mr. WARNER. Right.

Mr. REID. Following that amendment, Senator BINGAMAN has an amendment on missile defense which Senator WARNER has reviewed.

Mr. WARNER. Right.

Mr. REID. Senator BINGAMAN has agreed to a 30-minute time agreement on that. That would be under the usual form relating to second-degree amendments. I ask that in the form of a unanimous consent request.

Mr. WARNER. No objection on this side.

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

Mr. REID. The reason we have done this is there is a briefing at 3 o'clock. We could stack the two votes, the Harkin and Bingaman votes, at around 4 o'clock, thereabouts.

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

The Senator from Vermont.

Mr. JEFFORDS. Madam President, I would like to talk just a minute about the need for available space for training. I was in the Navy. I was on board a destroyer. I was a gunnery officer. We were involved in wartime activity in Lebanon. Our training and all was for shore-fire bombardment. I understand what is needed and what is necessary, and I know this bill is carefully crafted to ensure there will be adequate space for the types of operations I participated in. I know our military is pretty efficient and there are areas that are designated that they cannot hit. There is always a chance they might, but they can rearrange things to make sure those areas are not in their gun sights. It is not anything that is of great difficulty to do. These are huge areas.

So I think the arrangement we have under this amendment is very reasonable and, from my own experience, quite possible to keep everybody happy. So I disagree with the comments of my chairman.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

Mr. ENSIGN. Madam President, as chairman of the subcommittee which reviewed this proposal and included this proposal on the Endangered Species Act, I want to spend a couple minutes to educate our colleagues on why it is important to defeat this amendment that has been proposed.

First of all, we held two hearings—Senator AKAKA and I did—and we worked beautifully together. Senator AKAKA is a wonderful person to work with. Our staffs worked really well together. On several of the proposals the administration had put up on the environment, we held hearings. We brought in experts from both sides. Everybody was represented. We had very fair hearings. I think everybody who was in attendance would agree the hearings were fair and balanced.

Out of those hearings came a couple of findings: One is that over the last 20 years the military has done a fabulous job with its ranges in protecting habitat as well as endangered or threatened species. I think there is no disputing that.

In the past, I think there certainly were some mistakes that were made by the military. But in the last 20 years or so we have done a really good job with our armed services protecting the habitat and the species on these various ranges.

What has happened now is we are in a situation where the courts, instead of allowing what has happened with some of these what are called Integrated Natural Resource Management Plans, which are in place and have done a great job protecting the species and the habitat—what the courts are threatening to do, and it looks as if it is going to happen, is those will no longer be able to be used. We will have to go with much stricter definitions, much more costly ways of doing business, and a lot of the ranges will be shut down.

I am the chairman of the Readiness Subcommittee. We are in charge to make sure our armed services are ready when they are called upon to defend the United States of America.

I have a letter I would like to have printed in the RECORD. I ask unanimous consent that be the order.

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

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 21, 2003.

Hon. JOHN WARNER,
Chairman, Senate Armed Services Committee, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: I would like to underscore the critical importance of the Endangered Species Act language as currently contained in S. 1050, the Defense Department Authorization Bill.

The Department of Defense's primary mission is to maintain our Nation's military readiness. We possess the most ready, capable armed forces in the world; however, expanding trends in environmental restrictions are significantly impacting military training and operational readiness.

We need your continued support to restore needed balance between environmental and national security concerns, and to protect activities essential to prepare our men and women for combat.

Thank you again for your strong leadership and concern for America's military.

Sincerely,

RICHARD B. MYERS,
Chairman of the Joint Chiefs of Staff.

Mr. ENSIGN. This letter pretty much sums up what we try do in this bill. We

are balancing environmental protections with military readiness. Sometimes these are competing concerns.

We did not overreach in this bill. We struck a balance. We struck a very delicate balance, but we think we have struck a balance.

If anybody has any questions, they just have to go visit our military ranges in Southern California, in the Carolinas. Wherever you go across the country, visit our ranges and you will see some of the most pristine areas you can find, some of the best protected habitat you can find, and these endangered and threatened species are flourishing.

It is not a question of this bill rolling back environmental protections. We do not want the courts putting such limits on the military that they cannot go forward in this balance in the future, where we protect species and habitat and we ensure military readiness for our armed services.

A couple of specific problems with this amendment: The INRMP sites and the Endangered Species Act are complementary statutory frameworks that together ensure protection of endangered and threatened species. The Lautenberg amendment introduces an unnecessary and complicated requirement, and we believe—the Department of Defense and the Department of the Interior believe—it will lead to more lawsuits, not less. We are trying to get away from the lawsuits and make sure we are spending the money instead of fighting legal battles in protecting the species and making sure we are ready for what our armed services are called to do.

I ask our colleagues to seriously take a look at this. We just saw the results of great readiness in Iraq. The arguments were made: We are ready; there is not going to be a problem.

We were ready because our ranges were able to be used. If we roll back the ability to use our ranges, we will not be ready. We will not have the kind of military readiness we need in future conflicts. That is why it is so important that we do as the language in the bill suggests, protect the balance between environmental protection and military readiness.

I reserve the remainder of my time.

Mr. LEAHY. Mr. President, it is opportune the Senate is considering the National Defense Authorization Act for fiscal year 2004 just after the successful military action in Iraq. Unfortunately, as is the case with many of the efforts undertaken by this administration, there is an attempt to bypass environmental regulations under the cover of some national guise—in this instance military preparedness. In particular, I am incensed by section 322, which would prohibit the Secretary of the Interior from designating critical habitat on any Department of Defense, DOD, lands that have an Integrated Management Natural Resources Plan, INRMP.

The Sikes Act was never intended to be a substitute for the ESA but rather a complement to it. The Sikes Act is clear that it does not ''affect any provision of a Federal law governing the conservation or protection of fish and wildlife resources.'' As a complementary conservation measure, INRMPs are not subject to the same rigorous implementation requirements as conservation measures taken under the ESA, such as being based on the ''best available science.'' In addition, existing Fish and Wildlife Service policy allows the presence of ESA requirements to function as an incentive to DOD land managers to develop the best INRMPs possible. This policy encourages the development of good INRMPs. A blanket exemption to critical habitat designations would remove this incentive to practice the best stewardship possible.

Why the need for such an exemption? The administration would have the American public believe that environmental laws, in this instance the Endangered Species Act, ESA, infringes upon the readiness of American troops by drastically impeding training exercises. Yet there is even discord within the administration. At an Environmental Protection Agency, EPA, hearing held in the Senate earlier this spring, EPA Administrator Christine Todd Whitman noted that she did not ''believe that there is a training mission anywhere in the country that is being held up or taking place because of an environmental protection regulation.'' I have to wonder if it is statements like this, where Administrator Whitman was speaking for the environment and not just toeing the administration line, that helped lead to her recent resignation. I hope the administration will fill her shoes with someone that will make protecting the environment his or her first priority as I believe Administrator Whitman did under very difficult circumstances.

Finally, it is absurd to provide such an exemption when the ESA allows for the law's requirements to be waived, at the request of the Secretary of Defense, when national security concerns outweigh those of species conservation and other solutions cannot be found. To date, no Secretary of Defense has ever utilized the flexibility in this act. Granting a blanket exemption to the ESA removes the ability for decisions to be made on a case-by-case basis and only when national security concerns are real.

This administration's continued attack on over 30 years of implementing environmental laws is in blatant disregard to the sentiment of the American public. A recent poll showed that over one-half of the American public felt that the U.S. Government was not doing enough to protect the environment and three-quarters of those polled wanted to see stronger enforcement of these laws. Yet, again and again, whether allowing for future inclusion of wilderness into the Federal lands, mining in protected grizzly bear habitat in Montana, or the possible forfeiture of thousands of miles of road systems on Federal lands, this administration continues to shut the American public out of the debate over the protection of their environment. I call upon my colleagues to stop this attack by the administration and strip section 322 from the National Defense Authorization Act.

Mr. DASCHLE. Mr. President, I rise to support the amendment offered by Senators LAUTENBERG and JEFFORDS to the Department of Defense authorization bill.

The bill before us would block any designation of critical habitat under the Endangered Species Act on any Department of Defense lands.

The Department of Defense controls 25 million acres of land where some of the best habitat remains for more than 300 threatened and endangered plants and animals.

Since critical habitat designations would not be applied to military lands, the Lautenberg-Jeffords amendment would add two simple requirements to ensure that the Department of Defense develop integrated natural resource management plans to protect species.

The amendment would also require the Secretary of the Interior to ensure that a resource management plan conserves threatened and endangered species and is adequately funded.

Critical habitat is an important component of the Endangered Species Act and provides help to species near extinction by identifying areas that are needed for species survival and recovery.

This provision in the bill is not necessary to maintain our military readiness. According to a General Accounting Office report, issued on June 2, 2002, on military training: ''training readiness, as reported in official readiness reports, remains high for most units and that the level of readiness does not support DOD's claims its readiness is being hurt by environmental laws.'' The Department of Defense has a strong record of balancing readiness and conservation.

I urge my colleagues to support this important amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Madam President, I would like to reiterate that there is plenty of room for the training. All we ask is to make sure before that training is conducted there are studies done to make sure endangered species can be saved and they can reorient where the training is to accommodate them.

The GAO found the military has presented no evidence that the Endangered Species Act has impaired training. If the DOD needs an exemption from the Endangered Species Act, sections 7(j) and 4(b)(2) provide relief from the designation of critical habitat. The DOD has never sought an exemption under 7(j). How can we say the law needs to be changed when the relief under current law has never been used?

I refer the attention of my colleagues to this quote:

The President has said that he wants the Federal Government to be held to the same standards of environmental cleanup as the private sector . . . so, we've [EPA] said you have got to meet the same standards as the private sector.

That was Christine Todd Whitman on the Dianne Rehm show on May 21, 2003. And quoting again:

I don't believe that there is a training mission anywhere in the country that is being held up or not taking place because of the environmental protection regulations.

That is EPA Administrator Christine Todd Whitman's testimony before the Senate Committee on Environment and Public Works on February 26, 2003.

This is a perfectly reasonable amendment. It will protect and not interfere at all with the training requirements of our Nation. I seriously counter the remarks made recently.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. ENSIGN. In response to the EPA administrator's quotes we have before us today, I spoke to the administrator. We had testimony from the EPA following this to try to clear up any kind of confusion. As I mentioned, we have not had problems with readiness up to this point because the Integrated Natural Resource Management Plans have been working well as a balance, making sure habitat and species are protected, but also where readiness could go forward and be maintained at a high level. What the military is concerned about is the court decisions that look like they are going to go against the military to where they will not be able to use the ranges in an effective manner. The statement that was made by Administrator Whitman, 5 years from now, whoever the EPA administrator would be at that time, would not be able to be made.

People are very concerned that readiness will be severely affected if the court decisions are allowed to go forward. This bill language says to the courts, balancing environmental concerns with military readiness is working. Let's keep with what is working instead of putting huge requirements on to the military where they will not be able to use the ranges.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Vermont controls the balance of the time.

Mr. JEFFORDS. I yield to the ranking member of the committee.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. How much time does the Senator from Vermont have remaining?

The PRESIDING OFFICER. Four-and-a-half minutes.

Mr. LEVIN. Madam President, I support the Lautenberg-Jeffords-Akaka amendment. It has been said earlier in the debate that the DOD spokesperson said all the Department wants to do is codify the Clinton administration approach to this issue of endangered species on military lands. That is precisely what the Lautenberg amendment does. If we want to codify—as the opponents of the amendment say they want—what the Clinton administration did relative to this issue, this is the way to codify it. If we don't adopt this amendment, it is not in our code. It is not codified.

I support the amendment and hope it can be adopted.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, I yield back the remainder of my time.

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

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

Mr. ENSIGN. Madam President, have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. They have not.

Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 722. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) is necessarily absent.

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

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—51

Akaka	Dodd	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Chafee	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Collins	Kerry	Schumer
Conrad	Kohl	Snowe
Corzine	Landrieu	Specter
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Wyden

NAYS—48

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

NOT VOTING—1

Edwards

The amendment (No. 722) was agreed to.

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

Mr. LAUTENBERG. 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 Nevada.

Mr. REID. Under the previous order, what is the next?

The PRESIDING OFFICER. The Harkin amendment.

The Senator from Iowa.

AMENDMENT NO. 774

Mr. HARKIN. Madam President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 774.

Mr. HARKIN. Madam 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 funds for acquiring for inventories of the Department of Defense property in excess of the requirements for the inventories)

On page 44, between lines 18 and 19, insert the following:

SEC. 313. INVENTORY MANAGEMENT.

(a) LIMITATION ON PURCHASE OF EXCESS INVENTORY.—(1) Subject to paragraph (4), no funds authorized to be appropriated by this Act may be obligated or expended for purchasing items for a secondary inventory of the Department of Defense that would exceed the requirement objectives for that inventory of such items.

(2) The Secretary of Defense shall, within 30 days after the date of the enactment of this Act, review all pending orders for the purchase of items for a secondary inventory of the Department of Defense in excess of the applicable requirement objectives for the inventory of such items, and shall ensure compliance with the limitation in paragraph (1) with respect to such items.

(3) The Secretary shall, within 30 days after the date on which a requirement objective for an item in a secondary inventory of the Department of Defense is reduced, review all pending orders for the purchase of that item and ensure compliance with the limitation in paragraph (1) with respect to that item.

(4) The Secretary may waive the limitation in paragraph (1) in the case of an order for the purchase of an item upon determining and executing a certification that compliance with the limitation in such case—

(A) would not result in significant savings; or

(B) would harm a national security interest of the United States.

(b) REDUCTION OF EXCESS INVENTORY.—(1) No funds authorized to be appropriated by

this Act may be obligated or expended after March 31, 2004, to maintain or store an inventory of items for the Department of Defense that exceeds the approved acquisition objectives for such inventory of items unless the Secretary of Defense determines that disposal of the excess inventory—

(A) would not result in significant savings; or

(B) would harm a national security interest of the United States.

(2) Not later than January 1, 2004, the Secretary shall establish consistent standards and procedures, applicable throughout the Department of Defense, for ensuring compliance with the limitation in paragraph (1).

(c) REPORT ON INVENTORY MANAGEMENT.—(1) Not later than March 31, 2004, the Secretary of Defense shall submit to Congress a report on—

(A) the administration of this section; and

(B) the implementation of all recommendations of the Comptroller General for Department of Defense inventory management that the Comptroller General determines are not fully implemented.

(2) The Comptroller General shall review the report submitted under paragraph (1) and submit to Congress any comments on the report that the Comptroller General considers appropriate.

Mr. HARKIN. Is the time 15 minutes equally divided?

The PRESIDING OFFICER. It is 30 minutes equally divided.

Mr. HARKIN. Madam President, this amendment seeks to reduce the wasteful buildup of unneeded inventory at the Department of Defense. Based on the findings of the General Accounting Office, I believe this amendment would save at least $2 billion annually.

Last year, as a member of the Defense Appropriations Subcommittee, I requested that the GAO prepare a report on the inventory requirements of the Department of Defense. That report has just been printed and released dated May 2003. This is the newest in a series that I have had GAO undertake in recent years on related topics.

Pentagon waste is not a new issue, nor is the issue addressed by my amendment the only kind of waste that occurs within DOD. People have pointed out numerous examples of waste in DOD over the years, some quite spectacular.

Later in my statement I will talk about the other kinds of waste we uncovered by past GAO reports that I requested. Much has been done to reduce Pentagon waste, and I commend those efforts. The chairman and ranking member, both, and when they have been in reversed positions, have made a great effort in this regard. We have reduced Pentagon waste.

However, the Department of Defense remains the largest purchaser of goods in the Federal Government. The size of the bill continues to increase, and we have an authorization bill of $400 billion. That includes $75 billion for procurement. At those levels, we do need to be vigilant and we need to perform an ongoing watchdog role. That is what this amendment is aimed to ensure.

I am sorry to say, despite the long history of investigations and GAO reports, many of the problems still have not been solved. That is why I offer this amendment.

What the amendment addresses is, the Department of Defense routinely purchases and keeps on hand, for the purpose of meeting the Department's requirements, many items in a category it calls secondary inventory. Secondary inventory means spare and repair parts for weapons. It also includes clothing, medical, and many other items that are not weapon systems themselves. Obviously, there is a large amount of such supplies our military needs to keep on hand—over 2 million items.

According to the GAO, the Pentagon has approximately $70 billion worth of this secondary inventory. Unfortunately, out of the $70 billion worth of secondary inventory, there was about $38 billion in excess or unneeded inventory. So we have $70 billion in secondary inventory, much of which is needed; but GAO identified $38 billion in what they call excess inventory, inventory that the Pentagon says they do not even need. That is more than half of the secondary inventory classified as excess. This is totally unacceptable. It is unacceptable that DOD could find itself with more than half of its secondary inventory above their own requirements. I am sure there are valid explanations why some requirements are misjudged, but to end up with $38 billion worth of unneeded inventory out of a total of $70 billion of inventory seems to me to be a pretty good definition of waste.

It is worth pointing out that the Department of Defense generally concurred with this GAO report. The Department did not disagree with these findings.

But that is not all. Of the $38 billion in excess secondary inventory, according to the GAO, $1.6 billion was still on order. In other words, we are still paying contractors to make $1.6 billion worth of stuff the Pentagon itself has acknowledged it does not even need. So why weren't the orders canceled?

My amendment addresses this problem in two simple ways. First, it requires the Pentagon to cancel those orders for unneeded items where it makes sense; that is, unless the Secretary determines, one, that it will not save money; or, two, the Secretary determines that it will harm national security. Unless he finds either one of those, then the Department must cancel orders for items it does not think it needs.

Second, my amendment requires the Pentagon to reduce the excess inventory it already has on hand. Again, if the Secretary determines that, (a), it will not save money or, (b), it will harm national security, then the Department can keep right on storing these items. Otherwise, they have to sell the stuff so we do not pay to keep storing it. According to the GAO, that excess inventory on hand was worth about $36 billion.

I believe these two simple steps should save taxpayers at least $2 billion annually without imposing burdensome requirements on the Department of Defense and without compromising defense readiness.

I have requested GAO reports in the past, and many of those reports also found significant waste in the Department of Defense. Reports on inventory that the Army and the Navy ship from one location to another found that each service loses track of at least $1 billion worth of shipped items every year. Imagine that. They ship it, they do not know if they shipped it, and they do not know if anyone got it. They lose track of $1 billion a year in inventory.

Last July, another report revealed a complete breakdown in tracking and control of Air Force inventory shipped to contractors. The Air Force could not make sure that contractors had asked for items they needed, they could not make sure they had received what was sent, and they could not make sure they used what they got on Government contracts, and they did not follow up on known problems. This was just a report from last summer.

Other reports have found that the Pentagon pays too much for common items and buys things we do not need, and on and on.

I believe we do have a serious problem in inventory control with the Department of Defense. I half facetiously, a year or two ago when I offered a similar amendment, said that the Government is now contracting out a lot of functions, and the Bush administration seems to be intent on contracting out, that maybe what we really ought to do is contract out inventory control for the Department of Defense to Wal-mart. I can guarantee that Wal-Mart does not lose $1 billion a year in inventory. I guarantee when Wal-Mart orders items, they know if they have been shipped and they know who gets it. I picked on Wal-Mart, but I could name another company. But my point is made.

We have a huge bureaucracy, the Department of Defense. They are buying billions of dollars' worth of items with taxpayers' money, and in many cases they cannot account for it. We have the stockpiling of excess items, and they keep right on buying items that they say they do not even need.

Would someone please make sense of this to this Senator? Why is the Department of Defense ordering items that it has already said it does not need, yet keeps the orders going? That is what my amendment is attempting to do.

Some of the past GAO reports have resulted in improvements. The Navy, for example, claims to have accounted for $2.5 billion of inventory discrepancies. But I am sorry to say the recommendations are frequently not followed. Just on inventory issues, the GAO has more than 30 open recommendations on using accurate data, setting consistent procedures and following them, adopting commercial best

practices and modern inventory systems, taking timely actions, and many more—30 open items the GAO has identified to which the Department of Defense simply is not paying attention.

My amendment also requires that the Department of Defense report to Congress on what the Department is doing to implement these open GAO recommendations on defense inventory issues.

Again, this amendment is a modest step forward. It is needed because the Department has either not been willing or not been able adequately to address, by itself, past findings by the GAO of serious waste. I have chosen to address the single, narrow area of secondary inventory because that is the area where we have fresh information from the GAO, information with which DOD generally concurs.

Now, while $2 billion may not be a large amount compared to the $400 billion authorized in this bill, it is still a lot of taxpayer money, and it is being wasted. We ought to stop it. That is what my amendment seeks to do.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan.

Mr. LEVIN. Madam President, how much time is there on this amendment?

The PRESIDING OFFICER. Thirty minutes, evenly divided.

Mr. LEVIN. Madam President, first I thank and commend the Senator from Iowa for this amendment. It is an amendment which raises a lot of very significant issues about the Department of Defense inventory. It is a subject I had quite a bit to do with many years ago, particularly when we raised issues about the amount of the warehousing that exists in the Department of Defense, the amount of purchases which were made which contributed to that inventory, which was excessive.

We made some progress. This was a number of years ago, but nonetheless we made some progress. I think we actually reduced the number of warehouses at that time by about 40 percent. But it is obvious we still have a problem and we are going to have a greater problem if we do not address it because of the increased size of the Defense budget and the purchases of the Defense Department.

The GAO has issued a report. It is a fairly new report. Frankly, we have not had a chance to even analyze that report. Many years ago, when we took up this subject and had hearings and made some progress on this issue, we had some differences with the GAO over their approach, over the way in which they measured things. I don't know whether that is still a problem because, again, we have just not had a chance to review this report. It is very recent. We have not had a chance to meet with the GAO or the Senator from Iowa and his staff.

If the Senator is willing, I would make a commitment—I know the chairman would join me in this commitment because I have spoken with the chairman about this subject—to look into the GAO report and to do so promptly, to review it, and then to meet with the Senator from Iowa to review it and address those issues he thinks need to be addressed. We will do that promptly. We are not trying to delay it because the Senator has pointed out matters which could save us significant amounts of money.

On the other hand, if we do it wrong, for instance, if we sell things which are excess to inventory which will not be excess a few months from now, if we bring the inventory down—for instance, if we have 2 years of inventory for things we only need a year and a half of, we may not want to sell that extra 6 months; we may want to bring the inventory down to a year and a half.

There are some complications. I have had a chance to talk with our dear friend from Iowa. His heart is absolutely in the right place. His head is in the right place. His staff is in the right place. We want to try to be in the right place with him and join him in this effort and have the opportunity which I have just described to review this GAO report with him and take the appropriate action.

I urge he consider allowing that course to occur and not to press his amendment at this time. I know the chairman of the committee has some thoughts on the subject as well.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I associate myself with the remarks of my colleague from Michigan.

I say to the Senator from Iowa, really, in a way we appreciate what you have done because you have identified an issue that has been of concern to our committee for some many years. The Armed Services Committee has held hearings and sponsored much of the GAO's best-practices work. But there remain to be done some important aspects of this problem.

DOD has made some progress but much more needs to be done. We recognize that. I want to work with the Senator from Iowa and the Senator from Michigan and other members of the committee to address the inventory management problems at the Defense Department.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I thank both the chairman and the ranking member for their attention, and their responses. I know the Senators and their staffs, on both sides, have worked on this matter going back some years. I appreciate that.

This seems like that whack-a-mole type thing; you keep hitting it and something else pops up. From our side, the Defense Appropriations Subcommittee side, I have been addressing this since 1995. GAO even said here:

> Since 1995, we have reported on imbalances in DOD's inventory, and our current work shows that these imbalances continue to exist.

I know the chairman and ranking member have a lot on their plate. This is a big bill. There is a lot you have to pay attention to. But somehow we just have to get our hands on this.

In response to what Senator LEVIN had said, we found in one of our reports—I am sure the chairman is very familiar with it—where we had at one point 100 years or more of inventory of some items. Of course they are going to be long obsolete before that hundred years is out.

Some of that has been taken care of. I compliment the chairman and ranking member, now and in the past, for attending to that, because a lot of that has been reduced. I compliment you for that.

But we still have one problem here—well, one among others—of the secondary inventory and the fact they keep buying, even though they themselves say they do not need it.

So I appreciate what you said. I know you have not had a chance to take a look at it. I look forward to my staff and your staff working together and maybe coming up with some things so we can get them moving in the right direction.

Mr. WARNER. Madam President, if I might say to my colleague, on a personal note, he and I have reminisced many times how we have been privileged to wear the uniform of our country. I am struck by the hundred years. That parallels the commode scene we had hear some years ago, if the Senator remembers.

People operating in the Department of Defense have good intentions, be they in uniform or civilians. It is their country and their taxpayers' money. What we have to do is provide them with the proper direction when they need it to try to correct these things. But we have always, being military persons ourselves, to remember readiness is foremost. We have to err sometimes on the side of caution to maintain the readiness needed, particularly in today's environment, where unlike when you and I served there was time to get ready for military operations.

World War II basically took a year to get cranked up and going. We don't have that time anymore with these modern weapons and terrorism and the like. We have to be ready because what is on the shelf and what is in inventory is about all the men and women in the Armed Forces have when they have to move out with such swiftness now to address the threats of today.

I thank the Senator, but I just wanted to bring up that one note.

Mr. HARKIN. I appreciate my friend from Virginia mentioning that. That is true. That is why I understand we have to have some of this inventory. You are right, we should err on the side of caution in this area. But with the tremendous buildup we have and the amount

of money we are talking about here, let's face it, big mistakes can be made and things can happen.

I went back one time and I read a lot about the old Truman Commission in World War II that was set up. Here we were, World War II, and we had to respond, as the Senator knows, rapidly at that time. We had to go almost from nothing to build up an Air Force and a Navy and an Army. The enemy was at our gates. But at the same time, the Senate set up a special Committee then under Senator Harry Truman of Missouri. That commission did a number of things. Some people went to jail. Some people paid fines. They saved the taxpayers literally—I don't know if it was billions, at least hundreds of millions of dollars at that time, which would translate into billions at today's inflated levels. They did that in the midst of the Second World War.

I am just saying we need some more oversight, and we need some better accounting practices and inventory control systems.

Maybe the chairman did not hear me when I said earlier, half facetiously, a couple years ago maybe that when we are contracting out we ought to contract out inventory control to Wal-Mart. They don't lose much. They keep track of everything. As the chairman knows, there are some new technologies out there that are coming on line that will allow us to track——

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

Mr. HARKIN. I ask unanimous consent for a couple more minutes.

Mr. WARNER. There is no objection on this side.

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

Mr. HARKIN. Maybe some of this new technology would be what would help us get more control.

I thank the chairman.

AMENDMENT NO. 774 WITHDRAWN

Madam President, I ask unanimous consent to withdraw my amendment. I look forward to working with the chairman and ranking member to try to get a better handle on this.

Mr. WARNER. We thank our colleague very much.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Madam President, parliamentary inquiry: My understanding is that the Bingaman amendment is the order at this point in time.

The PRESIDING OFFICER. That is the next amendment to be considered.

Mr. WARNER. Could that temporarily be set aside for 5 minutes so the Senator may be recognized and then we will return to that?

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

The Senator from Utah.

Mr. BENNETT. Madam President, I thank the distinguished chairman and my friends on the Democratic side for allowing me to make this presentation.

AMENDMENT NO. 776

Mr. BENNETT. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, Mr. REID, and Mr. ALLEN, proposes an amendment numbered 776.

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

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

The amendment is as follows:

(Purpose: To repeal the MTOPS requirement for computer export controls)

At the end of subtitle D of title X, add the following:

SEC. 1039. REPEAL OF MTOPS REQUIREMENT FOR COMPUTER EXPORT CONTROLS.

(a) REPEAL.—Subtitle B of title XII of, and section 3157 of, the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note) are repealed.

(b) CONSULTATION REQUIRED.—Before implementing any regulations relating to an export administration system for high-performance computers, the President shall consult with the following congressional committees:

(1) The Select Committee on Homeland Security, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives.

(2) The Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(c) REPORT.—Not later than 30 days after implementing any regulations described in subsection (b), the President shall submit to Congress a report that—

(1) identifies the functions of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, Secretary of State, Secretary of Homeland Security, and any other relevant national security or intelligence agencies under the export administration system embraced by those regulations; and

(2) explains how the export administration system will effectively advance the national security objectives of the United States.

Mr. BENNETT. Madam President, this amendment deals with the subject which I have dealt with before. It has to do with the National Defense Authorization Act which requires the President to use as a measure for computer performance in setting export control thresholds a measurement known as MTOPS, which stands for millions of theoretical operations per second.

The interesting thing about MTOPS is that, like Topsy, which sounds like they are named after, they are constantly growing, and the level of MTOPS keeps growing from 4,000 to 8,000 to 16,000 to 56,000, and on and on. Every time we set an MTOPS level as saying we can control the exportation of supercomputers by insisting that this level not be exceeded, technology catches up. Quite literally, the last time we dealt with this, someone could go down to Toys-R-Us and buy a Sony PlayStation and have a device with more MTOPS in it than we were allowing to be exported in the name of protecting supercomputers from falling into improper hands.

This matter has been discussed at some length. It has been decided and confirmed by the GAO that the use of MTOPS as the measure for controlling exports in this area is not productive and that MTOPS no longer presents any kind of logical measure of what has happened. Nonetheless, it is written into the law that MTOPS should remain as our present measure.

My amendment would repeal that requirement in the law. It is supported by virtually everyone who understands the reality of where we are in the high-tech industry.

I would go on to debate the amendment at greater length and outline its need, but I understand from conversations with the chairman's staff and with the Parliamentarian that this amendment would not be considered relevant to this bill at this time. For that reason, I will withdraw the amendment.

Mr. REID. Madam President, will the Senator yield?

Mr. BENNETT. I am happy to yield.

Mr. REID. I appreciate very much the Senator offering this amendment. He and I have worked on this matter through several Congresses. It is an extremely important amendment. It is unfortunate that it is not going to be relevant to this matter. I hope there is some way during this Congress that we can expedite this most important amendment which the Senator is talking about.

Talking about job creation, this is a way to create jobs—get rid of this arbitrary rule that at one time may have had a little bit of reason but now has absolutely no reason to be on the statutes of this country.

Our current MTOPS metric measure which is used to regulate the export of U.S.-made technology hardware is outdated, hurts our high-technology industry, and should be better crafted to address our Nation's specific security concerns.

If U.S. companies are to effectively compete outside the United States in foreign markets, the current MTOPS metric measure must be repealed.

Once repealed, the current MTOPS measure will remain applicable to all export controls until the President, after consultation with the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Banking, Housing, and Urban Affairs of the Senate has taken into consideration all relevant and necessary security concerns to ensure that U.S.-developed technology cannot be abused for the purposes of tyranny and terrorism.

The President shall also consult with the Secretary of Commerce, Secretary of Defense, Secretary of Energy, Secretary of State, Secretary of Homeland Security, and any other relevant national security or intelligence agency under the export administration system affected by the MTOPS provisions.

We must act now to protect our status as world leaders in technology development.

In the interests of national security and economic productivity, we must clear a path to reform the current MTOPS metric measure that is unnecessarily restraining our high-technology industry.

AMENDMENT NO. 776 WITHDRAWN

Mr. BENNETT. Madam President, I thank my friend from Nevada. I will tell him, there is a way this can be done this Congress. It is my understanding an attempt will be made in the House to place this amendment in the bill in the House where it does not run into the relevancy difficulty I ran into here today.

I would hope our chairman and ranking member, when they get to conference, if they find the language in the bill, would feel so disposed to accept it as it becomes a conferenceable item.

Madam President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from New Mexico.

AMENDMENT NO. 765

(Purpose: To require a specific authorization of Congress before the conduct of the design, development, or deployment of hit-to-kill ballistic missile defense interceptors)

Mr. BINGAMAN. Madam President, I call up amendment No. 765 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] for himself, Mr. DORGAN, Mr. REED, and Mr. BIDEN, proposes an amendment numbered 765:

At the end of subtitle C of title II, add the following:

SEC. 225. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF CONGRESS FOR DESIGN, DEVELOPMENT, OR DEPLOYMENT OF HIT-TO-KILL BALLISTIC MISSILE INTERCEPTORS.

No amount authorized to be appropriated by this Act or any other Act for research, development, test, and evaluation, Defense-wide, and available for Ballistic Missile Defense Systems Interceptors (PE 060886C), may be obligated or expended to design, develop, or deploy hit-to-kill interceptors or other weapons for placement in space unless specifically authorized by Congress.

Mr. BINGAMAN. Madam President, I offer this amendment on behalf of myself, Senator DORGAN, Senator REED, and Senator BIDEN. This is an amendment I hope can be approved to clarify that this Congress, this Senate, does not intend to be authorizing—by this bill, the language we have before us here in the legislation—does not intend to be authorizing the weaponization of space.

The amendment proposes to require specific authorization from Congress if we are going to proceed to design or develop or deploy hit-to-kill interceptors or other weapons we intend to have placed in space.

This is an issue that has not had a great deal of debate in the Senate in recent years. In fact, I think we discussed it some when the former President Bush—not this President Bush, but the former President Bush—had his proposal for the program called Brilliant Pebbles. But there has not been a lot of discussion in the last few years. I do not believe this issue was addressed, either, in the markup of the Defense authorization bill in the Armed Services Committee. In my view, it is a very important issue.

Specifically, within this program there is a new start for fiscal year 2004 that is titled: ''Space-Based Interceptor Test Bed.'' This program proposes to develop a test bed in outer space consisting of several satellites that would deploy kinetic energy rounds to strike missiles in their boost phase. They also, of course, could be used to strike satellites as well.

I have great concern with this whole proposal. As all colleagues know, as a nation this President chose to withdraw from the ABM treaty. Now, the ABM treaty did contain a prohibition against deploying antiballistic missile systems in space. As I see this new start that is in the bill the administration has proposed to the Congress, we really are seeing here a follow-on to our decision to withdraw from the ABM treaty. In my view, it sends a very unfortunate signal to other countries—to China, to Russia, to North Korea, to other countries—that might have capability to follow our lead.

It essentially sends them the signal that we are beginning the process of weaponizing space. This is not a signal I think this Congress or this administration should be sending.

I note we have a longstanding policy, a policy that has been in place since President Eisenhower was in the White House, not to put weapons in space. There is a crucial distinction I want to make here between using space for military purposes and actually putting weapons in space. We do use space for military purposes. We use space for reconnaissance. We use space to gather information in a great variety of ways to support our defense needs. But we have never stepped over the threshold and actually put weapons in space. I think for us to choose to do so is a very important decision which should not be taken lightly and should not be taken without great care.

This program that is in the bill contains a seed element which I think should concern all Members. Under the Department of Defense so-called Spiral Development Policy, initial test beds—which is what this provision calls for—but initial test beds, such as the ground-based test bed at Fort Greely, are seen as being used simultaneously, at least for partial deployment of systems. It is my fear a similar result could happen with regard to this space-based test bed; that is, the initial fielded satellites would be converted, like the ground system at Fort Greely, to a fielded weapons system in space.

For that reason, I think it is important we make clear—we in the Congress make clear—we do not want that to happen, we do not want funds in this bill used for design and development and deployment of weapons in space unless Congress focuses on the issue and actually authorizes that action to take place.

There is a great deal I could point to here that elaborates on what I have been saying. I think the main point I want to make, again, is I do not believe most Americans support the notion that the United States should become the first country to deploy weapons in space. I do not think a military need has been demonstrated. In particular, I do not think the administration and the Congress should do so without a thorough discussion and debate about the issue, so that we, in fact, know what we are doing and the implications of what we are doing.

This is a very large step for us to take, to become the first nation to proceed to put weapons in space, and I do not think this is something that should be done lightly. This decision is one I think we will hear about for a very long time, and I think it will have repercussions for a very long time. I think this amendment I have proposed tries to make it clear we do not want to make that decision today, that the Congress has not debated this adequately, that the Armed Services Committee has not debated this adequately, and we are not prepared today to authorize—or at least we have not as yet, in my view, taken the step of specifically authorizing the design and development and deployment of weapons in space.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. CORNYN). EIGHT MINUTES REMAIN.

Mr. BINGAMAN. Mr. President, let me just talk about one other aspect. The Pentagon's Missile Defense Agency, which oversees missile defense research and development, did an interview in February talking about their so-called space-based test bed, which is what I am addressing my amendment to here.

The thrust of what they described in that interview was they intend to field satellites armed with multiple hit-to-kill interceptors that are capable of destroying a ballistic missile through a high-speed collision shortly after it is launched.

This might be something we decide we have to do, but, to my knowledge, that debate has not occurred in Congress, and I do not want to see us proceeding down that road without the Congress having focused on it, having actually specifically authorized it.

Therefore, my amendment tries to clarify that is, in fact, what is required before we can proceed down that road.

There is funding also in this same program element, and that is the PE 060886C. There is funding in there for the ground-based interceptors, for their development.

Certainly that is a decision we have made as a country, and I am not trying to revisit that. I do think we go a substantial additional step when we decide we are also going to be designing, developing, and deploying weapons in space. We will do so. We will begin that process by setting up this so-called test bed in space. Those satellites will be the beginning of that process.

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

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. It is my understanding I have 15 minutes under my control.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I wonder if I may ask my colleague a question or two. For many years you served on the Armed Services Committee. You have a complete familiarity as to how we address issues. My recollection—and I don't think it is to be disputed—of the markup in the subcommittee is, when we looked at this line of funding, no one on your side of the aisle or anyone else raised an issue. We went to full markup, and no one raised an issue about it.

Essentially you are coming in, which you have a perfect right to do, but you are coming in to kill a program. Am I not correct, this amendment kills the program?

Mr. BINGAMAN. Let me respond that I am certainly not trying to kill the development of any of the program that is ground based. I am saying, however, that we should not proceed to establish, to design, develop, and deploy a space-based weapons capability absent some debate about it.

Mr. WARNER. Mr. President, that is quite clear.

Is the answer to my question, yes, you are trying to kill the initiation of an element that could lead to space-based weapons? Isn't that correct?

Mr. BINGAMAN. That is correct. I think that should not be done without much more deliberation than we have given it.

Mr. WARNER. I just point out that on your side of the aisle, participating actively in markup in the full committee, there was no effort to examine it.

The next question I ask my colleague: Are you aware how much money the taxpayers of this Nation put in previous programs for space-based weaponry prior to when President Clinton—I don't say this in a critical way; it is just a fact way—determined that we would not put another dollar in space based?

Mr. BINGAMAN. Mr. President, in response to my colleague's question, I am aware that we put substantial funding in and most of that funding was for research.

Mr. WARNER. That is correct.

Mr. BINGAMAN. There is nothing in my amendment that would interfere with research. What I am trying to head off is the actual design and development and deployment of space-based weapons as part of this new program start. But research has proceeded. We have funded it at a high level. I have supported that.

Mr. WARNER. The Senator is on my time, and he is kind of getting into it a little bit. I need a few minutes here.

We spent, as a nation, $1.8 billion on space-based intercepts from 1985 to 1993. This is for $14 million to go in and take a look at what has taken place in years prior thereto, by virtue of an expenditure of $1.8 billion, to determine the feasibility of whether this concept should be resumed. Essentially you are stopping us from even taking a look at this enormous investment which has been expended to determine whether we should once again begin in a substantial way to look at space-based interceptors. That is what is before the Senate, $14 million to go back and look at a program of $1.8 billion. It is for that reason that we vigorously oppose the amendment.

I yield the floor at this time. I see the chairman of the subcommittee.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. How much time does each side have?

Mr. WARNER. Each side had 15 minutes. I am not sure for which side the distinguished ranking member is speaking.

The PRESIDING OFFICER. The sponsor has 5 minutes 43 seconds remaining.

Mr. LEVIN. How much time does the sponsor have remaining?

The PRESIDING OFFICER. Five minutes 43 seconds.

Mr. LEVIN. And the opposition?

The PRESIDING OFFICER. Ten and a half minutes.

Who yields time?

Mr. WARNER. I think it is important that we hear from the ranking member because I have asked a question. We did not address this at all in the subcommittee or full committee markup. I presumed, since it was in our bill—I say respectfully to my colleague—I believe he was here to support the bill as written. I come at somewhat of a surprise now on exactly where my distinguished colleague from Michigan is on this amendment.

Mr. LEVIN. Well, I certainly am not committed to the bill as written because there are a number of provisions in the bill that I opposed in committee and that I have opposed on the floor.

Mr. WARNER. But there was no opposition in the course of the markup, either in subcommittee or full committee.

Mr. LEVIN. The chairman is correct. This issue was not brought to my attention until the floor. But there are a number of issues which are brought to our attention for the first time on the floor. I hope any of us can support those issues when they are brought to the floor. We ought to all feel free to do that.

Mr. WARNER. I will save this debate for another day.

I yield the floor.

The PRESIDING OFFICER. Who yields time to the Senator from Colorado?

Mr. WARNER. I yield.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, as chairman of the Strategic Subcommittee, this is an issue on which we have held discussions. We have put together the provisions that deal with many of the modernization elements of the defense and Armed Forces of the country. This is an amendment that did not get brought forward during deliberation in the subcommittee, nor deliberation in the Armed Services Committee, as far as I recall.

I am concerned about continued efforts on the floor of the Senate to stymie our reaching out to new technology. We have had an amendment concerning low-yield nuclear weapons that allows for a study to think about what our alternatives might be. We have had amendments here concerning robust nuclear earth penetrators, just to study the concept.

Here is another concept that the committee has decided we should study. It seems to me that in a modern military, these are things we should be looking at. Things are changing.

I commend the President's Secretary of Defense. He is trying to modernize our military forces, get them to work together on the battlefield more than we ever had before. We saw that happen in Iraq. These are all issues that are part of a joint force effort.

I hope we can defeat the amendment. I oppose the Bingaman amendment. Again, it prohibits us even taking the time to study the concept. After you do the study, you list the pros and cons and then decide if this is something you want to move forward, whether it is feasible. We need to gather facts on actual costs. We may decide, after doing the study, that it is too expensive. On the other hand, we may do the study and look at the threats facing the country and say: This is something we need to be doing.

It is foolhardy that we have amendments that continually keep coming up that don't allow us to study our alternatives. We need to have the studies. We need to be thinking about what kind of threats and what we want the military to look like 10, 20, 30 years down the road.

I hope other Members of the Senate will join me in opposing this amendment.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I wonder if I can get the attention of the Senator from New Mexico, and Senator ALLARD as well. I ask the Senator from New Mexico to yield me 1 minute.

Mr. BINGAMAN. I yield to the Senator as much time as he needs.

Mr. LEVIN. The Senator from——

Mr. WARNER. Mr. President, just a minute. In a conscientious effort to resolve this, I ask unanimous consent that each side be given another 5 minutes.

Mr. REID. No objection.

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

Mr. LEVIN. The Senator from Virginia and the Senator from Colorado have raised a point that there has been a significant amount of money that has been invested in this item, and there should not be a prohibition on reviewing the work, studying the work, on doing research in this area. As I understand the language in the amendment of the Senator from New Mexico, it is not intended to prevent studies or, indeed, research. It is intended to say that before you get to the design stage, which is beyond research and beyond studies, you come back for specific authorization.

So the point being made is, if the Senator from New Mexico is not intending to prevent a review of all the work, which was done apparently in the 1980s, and is not intending to prevent studies or even research under 6.0, 6.1, and 6.2, I wonder whether the Senator from New Mexico would be willing to make that clear and explicit in that amendment, if that addresses satisfactorily the issue raised by the Senator from Virginia.

I have just talked to the Senator from New Mexico. There is no intent in the language to prevent a study of previous work. All this language says is that before you begin the design stage—that is beyond pure research—before you begin the design and development stage, come back and get specific authority. I don't think that is what is intended to be done with this money this year, from what the chairman and Senator ALLARD have said.

So I ask the question of the Senator from New Mexico whether the Senator would be willing to add language to his amendment that nothing in here is intended to prevent the study of the hit-to-kill capability, or previous analyses, or research prior to the design stage?

Mr. BINGAMAN. Mr. President, in response to my colleague's question, I think it is very clear what my amendment is trying to do, that the Department of Defense cannot obligate or expend funds to design, develop, or deploy hit-to-kill interceptors or other weapons for placement in space, unless they get specific authorization.

So if they want to do more research or go back and look at previously performed research or analyses, certainly I have no problem with that. I think that is——

Mr. WARNER. I draw the Senator's attention to the first words:

No amount authorized to be appropriated by this Act for research. . . .

It is right in there.

Mr. BINGAMAN. I think the operative language is on page 2, where I say what this sentence is intended to mean: that no amount authorized to be appropriated by this act for research, development, test, and evaluation may be expended for design, development, or the deployment of these types of weapons in space.

I think I have made it very clear we are trying to head off the use of funds for designing weapons in space until Congress has a chance to debate this issue and until there is a specific authorization required.

Mr. WARNER. Mr. President, I think there is some expression by our colleague to amend the amendment. I take that in good faith. I believe we need a little time to examine this proposal. The chairman of the subcommittee, the Senator from Colorado, is prepared to sit down with the Senator and see what we might be able to do to bridge the gap because this is essentially another vote, as it is now written, to stop the program cold, to put in a ban. We have been through a series of votes on that now and, thus far, we have prevailed to not let bans be put in place, and here is another one coming up.

So, in good faith, we will take a look at such amendments that the Senator may wish. Therefore, I simply ask unanimous consent that this amendment be laid aside for a period of time.

Mr. BINGAMAN. Prior to that, I yield 3 minutes to the Senator from Rhode Island. He has been waiting to speak on this general issue, if that is possible.

Mr. WARNER. We have no objection if the Senator takes some time to speak.

Mr. BINGAMAN. We can postpone a vote until we visit.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I want to underscore the major issue that the Senator from New Mexico is raising and that is the weaponization of space. We have talked today earlier about different nuclear programs and should we have low-yield weapons bans or robust nuclear earth penetrator bans. But the realm of nuclear weaponry has been upon us now for five decades.

To date, we have been successful in preventing weapons from being deployed in space. So this is a completely different issue. This is not the issue of shall we do more of what we have been doing for 50 years. This is a threshold question: Do we want to introduce weapons into space? And will this introduction come surreptitiously, innocuously by research programs that put weapons in space for a test bed without debate in the U.S. Congress on behalf of the American people and a clear decision?

I think that is the Senator's amendment. He has identified programmatic funding that could be stretched to inch our way—perhaps through the back door, if you will—into placing weapons in space. I think that is such a critical and important issue that we not only have to debate it but we should decide it, not scientists and technologists in the Department of Defense. I cannot think of any scientist who would not like more permission to study more things.

So I urge, hopefully, the resolution of this amendment. If it is not resolved and comes to a vote, I hope we can support the Senator from New Mexico.

I yield back my time.

Mr. LEVIN. 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.

Mr. REID. Mr. President, I have spoken to the two managers of the bill. They are both in agreement that we could set aside the Bingaman amendment and move to the next amendment which would be offered, and that is by Senator DAYTON. Senator DAYTON is offering an amendment on buy America. He has agreed to 30 minutes equally divided. We would, of course, have the normal agreement that no second-degree amendments will be offered.

So I ask unanimous consent that we set aside Bingaman and move now to the Dayton amendment, and that no second-degree amendments be in order prior to the vote on the matter.

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

Mr. REID. It would be in the usual form in relation to any language that might be stricken.

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

The Senator from Minnesota.

AMENDMENT NO. 725

Mr. DAYTON. Mr. President, I call up amendment No. 725.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. DAYTON), for himself, and Mr. FEINGOLD, proposes an amendment No. 725.

Mr. DAYTON. 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 strike section 833, relating to waiver authority for domestic source or content requirements)

Strike section 833.

Mr. DAYTON. I ask unanimous consent that the Senator from Wisconsin, Mr. FEINGOLD, be added as a cosponsor to this amendment.

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

Mr. REID. Mr. President, will the Senator from Minnesota yield?

Mr. DAYTON. I yield.

Mr. REID. Mr. President, Senator WARNER, who has been so heavily engaged in this legislation, allowed me to go forward with a unanimous consent request. However, it was brought to our attention that there is a Senator who wishes to offer a second-degree amendment, or might want to offer a second-degree amendment to this matter. I have consent that we go forward with the Dayton amendment but we would remove the time agreement.

Mr. WARNER. And recognize that there could be a second degree.

Mr. REID. That is right. If that does not come to be, we will worry about a time agreement at a subsequent time. The agreement is we are setting aside Bingaman and moving to Dayton.

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

Mr. REID. Mr. President, I appreciate the cooperation of the Senator from Minnesota.

Mr. DAYTON. I know the Senator from Virginia and the Senator from Nevada are working together on this and I am in good hands.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I call up this amendment and point out that at a time when millions of Americans are unemployed, looking for jobs, unable to find jobs, and are suffering terrible emotional and financial hardships as a result, it is astonishing to me that the administration would seek in this bill to move more American jobs to other countries. It is astonishing, but given this administration, it is not surprising. It is well on its way to becoming the most anti-jobs administration in our Nation's history.

Since President Bush took office 2½ years ago, 2.7 million jobs have been lost throughout the United States of America. In the first 3 months of this year alone, 500,000 jobs disappeared. The only idea for economic stimulus that the administration has is to cut taxes for the Americans who are already rich, whether they work or not.

In this bill, the administration wants to gut the ''buy American,'' which is an existing law passed by the Congress in 1933, which for the last 70 years, under Republican administrations, Democratic administrations, has been a policy of this Congress—that we will attempt to buy American.

The Berry amendment was enacted in 1941, at the onset of World War II, applying specifically to the Department of Defense procurements. It says, in pertinent part:

Provided: That no part of this or any other appropriation contained in this Act shall be available for the procurement of any article of food or clothing not grown or produced in the United States or its possessions, except to the extent that the head of the department concerned shall determine that articles of food or clothing grown or produced in the United States or its possessions cannot be procured of satisfactory quality and in sufficient quantities and at reasonable prices as when needed. . . .

That is not unreasonable. That is not onerous. It says you must buy products grown or made or manufactured in the United States except when the Secretary of Defense will determine, on his sole authority, that it cannot be procured of satisfactory quality or sufficient times at reasonable prices as and when needed. That is not even a ''buy American'' requirement but ''try to buy American'' requirement, try to buy American products.

This administration does not even want to try. They added into this committee bill section 833 which, in pertinent part, says:

Waiver of domestic source or content requirements

(a) AUTHORITY—Except as provided in subsection (f), the Secretary of Defense may waive the application of any domestic source requirement or domestic content requirement referred to in subsection (b) and thereabout authorize the procurement of items that are grown, reprocessed, reused, produced, or manufactured—

(1) in a foreign country that has a reciprocal defense procurement memorandum or agreement with the United States.

That is 21 foreign countries. And it is not even so important that the Secretary himself or herself has to make that determination.

It grants later that:

(A) may not be delegated to any officer or employee other than the Under Secretary of Defense for Acquisition Technology and Logistics.

If this bill passes with the current language, there will be 21 other countries around the world which can be given equal priority as the United States of America for contracts that provide jobs which are being paid for by American tax dollars. Those dollars had been appropriated and they will be spent on the U.S. Armed Forces, to clothe them, feed them, and equip them with the best, which is what they deserve because they are the best young men and women in the world and they proved their courage, their valor, and skills once again in Iraq, as they have before so many times and as they will probably be called upon to do again. They deserve the best. They should get the best. Congress has made clear in existing law that they will get the best and they will get it when they need it.

Current law says whenever it is reasonably possible, however, to supply those needs with goods and products and equipment that are produced in this country, using materials that are made, where feasible, in this country, then do so, recognizing that will provide an additional public benefit for those expenditures of tax dollars of creating or saving jobs for Americans. If it is not reasonably possible, the law says, then don't, but at least try to buy American. At least try to spend public funds in the United States rather than in other countries. At least try to benefit the U.S. economy rather than another nation. At least care enough to try.

For 70 years, every administration has been willing to make that effort. But not this administration, evidently, because at their request the language was inserted that says the Department of Defense does not even have to try; they can buy in the United States or they can buy in 21 other foreign countries, and the Secretary of Defense does not even need to be bothered with those decisions. They evidently do not consider it important enough to require him to do so. An Under Secretary can handle it. These are decisions that will decide whether some Americans keep their jobs and get new jobs. And they say it is not that important.

My colleagues, that is the question before the Senate today. Should we just give up at this point in time, right now especially, a 70-year policy that creates or saves American jobs for American citizens, when it is reasonably possible to do so? Or, no, no, it just really does not matter?

It matters a great deal to millions of Americans who are looking for work today. It matters a great deal to their husbands and their wives and their children. It matters a great deal to me, which is why I brought this amendment forward. If it matters to the Senate today, Members will support my amendment. I urge my colleagues to do so.

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

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

Mr. COCHRAN. Mr. President, I commend President Bush for his leadership in invigorating our Nation's missile defense programs. Just yesterday, the President publicly released his vision and guidance to provide for a ballistic missile defense system. National Security Policy Directive 23 formalizes the administration's missile defense policy, and it is consistent with the National Missile Defense Act of 1999, which is now Public Law 106–38. It was adopted during the 106th Congress.

The National Missile Defense Act stated:

It is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate) with funding subject to the annual authorization of appropriation and the annual appropriation of funds for National Missile Defense.

With the President's leadership, our Nation is now moving forward to provide the most technologically feasible defenses as soon as possible.

I commend the chairman of the Armed Services Committee and those who have worked with him to craft this authorization bill. It carries forward and builds upon the need for testing,

development, and deployment of adequate missile defense systems to protect not only our homeland but our forces in the field and our interests around the world.

Today, I am pleased to report that our national resolve and technological superiority are being brought to bear in ways not possible under the restrictions of the Anti-Ballistic Missile Treaty.

For the first time, our missile defense research and development efforts are being integrated at all levels. As a result, our Nation will benefit from deployed missile defense capabilities, while we continue to test and field technologies in logical increments.

We are moving forward with one integrated program consisting of several elements rather than separate programs linked in name only. In short, the evolutionary and integrated approach to research and development will allow defensive capabilities to be fielded years before they otherwise might have.

Systems we are pursuing are capable of intercepting missiles throughout the predicted flight path of various types of ballistic missiles. The threat of these missiles to our Nation, to our deployed Armed Forces, and to our allies exists today. It is prudent to continue with the immediate testing and fielding of the variety of systems needed to counter these challenging threats.

Testing to date has proven to be increasingly promising. Next year, ground-based interceptors in Alaska and California will be activated and will serve as a foundation upon which continental defenses may later be expanded. Testing locations along a Pacific test-bed will allow for near-term defense against rogue threats.

We will continue to develop and test incrementally. The plan is to field systems as we go and build upon capabilities as they are tested and proven.

Ground- and sea-based interceptors, additional Patriot, PAC–3, units, and sensors based on land, at sea, and in space are planned for operational use in 2004 and 2005. We will work with our allies to upgrade key early-warning radars to help enhance capabilities.

Equally promising systems will be deployable much sooner, due to the administration's incorporation of an aggressive research, development, and testing regimen.

In developing defensive capabilities along the land, sea, air, and space spectrum, our missile defense system will help protect our homeland and international interests, as well as contribute to the defense of our Allies.

The President has made clear that defending the American people against the threats to our homeland and our sovereignty is the administration's highest priority. I commend the President for this leadership.

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

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

Mr. BINGAMAN. Madam President, what is the business before the Senate?

The PRESIDING OFFICER. The pending business is the Dayton amendment.

Mr. BINGAMAN. I ask unanimous consent that the amendment be set aside and that we return to the amendment I offered, No. 765.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, how long will it take?

Mr. ALLARD. About 2 minutes.

Mr. MCCAIN. I do not object.

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

AMENDMENT NO. 765, AS MODIFIED

Mr. BINGAMAN. Madam President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his own amendment. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of subtitle C of title II, add the following:

SEC. 225. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF CONGRESS FOR DESIGN, DEVELOPMENT, OR DEPLOYMENT OF HIT-TO-KILL BALLISTIC MISSILE INTERCEPTORS.

(a) No amount authorized to be appropriated by this Act for research, development, test, and evaluation, Defense-wide, and available for Ballistic Missile Defense System Interceptors (PE 060886C), may be obligated or expended to design, develop, or deploy hit-to-kill interceptors or other weapons for placement in space unless specifically authorized by Congress.

(b) Of the amounts authorized to be appropriated for fiscal year 2004 for Ballistic Missile Defense System Interceptors, $14,000,000 is available for research and concept definition for the space based test bed.

Mr. BINGAMAN. Madam President, let me explain to my colleagues what we have done, both working with Senator LEVIN and Senator ALLARD and Senator WARNER and the various staff who have worked on this issue.

First, let me describe very briefly what my amendment does. The language of the amendment I offered originally was fairly clear in that we were trying to restrict the use of funds in a particular program element so that they could not be used, obligated, or expended to design, develop, or deploy hit-to-kill interceptors or other weapons for placement in space unless there was specific authorization by Congress. That is an important provision to try to get into the law. And in order to do that, I have agreed to a modification of that which Senator ALLARD recommended.

That modification would add a subsection (b) that would say:

Of the amounts authorized to be appropriated for fiscal year 2004 for Ballistic Missile Defense System Interceptors, $14,000,000 is available for research and concept definition for the space based test bed.

As I see the effect of this modified amendment, the general provision would be agreed to that there cannot be funds used for either design or development or deployment of these weapons in space out of these funds, with the only exception being that $14 million is available for research and concept definition with regard to this space-based test bed. That is an acceptable alteration and one that still keeps intact the basic provision I intended with my amendment. On that basis, I have agreed to modify it.

I yield to Senator ALLARD. I know he wants to describe the amendment.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. First, I thank the sponsor of the amendment, Senator BINGAMAN, for working in this compromise language. We do maintain, out of the ballistic missile defense system interceptors account, we have the $14 million kept available for research and concept definition for the space-based test bed. I thank Senator LEVIN and his contribution to help us work out the compromise, as well as the chairman, Senator WARNER.

I am prepared to yield back the remainder of my time. The other side is prepared to yield back the remainder of their time. Then we are ready to voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 765, as modified.

The amendment (No. 765), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 783 TO AMENDMENT NO. 725

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 783 to the language proposed to be stricken by amendment No. 725.

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

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

The amendment is as follows:

(Purpose: To propose the insertion of matter in lieu of the matter proposed to be stricken)

In lieu of the matter proposed to be stricken, insert the following:

SEC. 833. WAIVER AUTHORITY FOR DOMESTIC SOURCE OR CONTENT REQUIREMENTS.

(a) AUTHORITY.—Subchapter V of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2539c. Waiver of domestic source or content requirements

''(a) AUTHORITY.—Except as provided in subsection (f), the Secretary of Defense may waive the application of any domestic source requirement or domestic content requirement referred to in subsection (b) and thereby authorize the procurement of items that are grown, reprocessed, reused, produced, or manufactured—

''(1) in a foreign country that has a Declaration of Principles with the United States;

''(2) in a foreign country that has a Declaration of Principles with the United States substantially from components and materials grown, reprocessed, reused, produced, or manufactured in the United States or any foreign country that has a Declaration of Principles with the United States; or

''(3) in the United States substantially from components and materials grown, reprocessed, reused, produced, or manufactured in the United States or any foreign country that has a Declaration of Principles with the United States.

''(b) COVERED REQUIREMENTS.—For purposes of this section:

''(1) A domestic source requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item that is grown, reprocessed, reused, produced, or manufactured in the United States or by a manufacturer that is a part of the national technology and industrial base (as defined in section 2500(1) of this title).

''(2) A domestic content requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item produced or manufactured partly or wholly from components and materials grown, reprocessed, reused, produced, or manufactured in the United States.

''(c) APPLICABILITY.—The authority of the Secretary to waive the application of a domestic source or content requirements under subsection (a) applies to the procurement of items for which the Secretary of Defense determines that—

''(1) application of the requirement would impede the reciprocal procurement of defense items under a Declaration of Principles with the United States; and

''(2) such country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

''(d) LIMITATION ON DELEGATION.—The authority of the Secretary to waive the application of domestic source or content requirements under subsection (a) may not be delegated to any officer or employee other than the Under Secretary of Defense for Acquisition, Technology and Logistics.

''(e) CONSULTATIONS.—The Secretary may grant a waiver of the application of a domestic source or content requirement under subsection (a) only after consultation with the United States Trade Representative, the Secretary of Commerce, and the Secretary of State.

''(f) LAWS NOT WAIVABLE.—The Secretary of Defense may not exercise the authority under subsection (a) to waive any domestic source or content requirement contained in any of the following laws:

''(1) The Small Business Act (15 U.S.C. 631 et seq.).

''(2) The Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

''(3) Sections 7309 and 7310 of this title.

''(4) Section 2533a of this title.

''(g) RELATIONSHIP TO OTHER WAIVER AUTHORITY.—The authority under subsection (a) to waive a domestic source requirement or domestic content requirement is in addition to any other authority to waive such requirement.

''(h) CONSTRUCTION WITH RESPECT TO LATER ENACTED LAWS.—This section may not be construed as being inapplicable to a domestic source requirement or domestic content requirement that is set forth in a law enacted after the enactment of this section solely on the basis of the later enactment.

''(i) DECLARATION OF PRINCIPLES.—(1) In this section, the term 'Declaration of Principles' means a written understanding between the Department of Defense and its counterpart in a foreign country signifying a cooperative relationship between the Department and its counterpart to standardize or make interoperable defense equipment used by the armed forces and the armed forces of the foreign country across a broad spectrum of defense activities, including—

''(A) harmonization of military requirements and acquisition processes;

''(B) security of supply;

''(C) export procedures;

''(D) security of information;

''(E) ownership and corporate governance;

''(F) research and development;

''(G) flow of technical information; and

''(H) defense trade.

''(2) A Declaration of Principles is underpinned by a memorandum of understanding or other agreement providing for the reciprocal procurement of defense items between the United States and the foreign country concerned without unfair discrimination in accordance with section 2531 of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2539b the following new item:

''2539c. Waiver of domestic source or content requirements.''.

Mr. MCCAIN. Madam President, this amendment narrows the numbers of countries to six that would be eligible under the provisions of the bill and would modify the pending amendment to remove the restrictions that would be imposed by the pending amendment at least in the case of six nations which are our closest allies.

Last week we passed an AIDS bill through the Senate, and there were numerous amendments. One of them was a very interesting amendment because it basically protected an industry in the United States of America, thereby causing AIDS drugs to be only available at much higher prices, which then had the obvious effect of reducing the number of people who will be treated for AIDS. I forget the vote. I think it was 54 something to 40 something.

By protecting a major American industry, the pharmaceutical industry—in the estimates of some—hundreds of thousands if not millions of people will not be able to obtain a cure for AIDS because the drug money is obviously finite.

I was embarrassed by that. I think the Senator from Minnesota voted with the Senator from Massachusetts, Mr. KENNEDY, in his amendment of which I was a cosponsor. Basically what we are doing now is to set up protection for other industries—primarily, the defense industries in the United States—by prohibiting the United States from purchasing military equipment that is manufactured in other countries which is the effect of the Dayton amendment. It is rather remarkable because we just came out of a conflict from which we suffered Americans dead and wounded. One would think that the priority should be not where the equipment is manufactured, whether it be in the United States or England, Great Britain, one of our closest and most steadfast allies, a friend whose men and women fought alongside of ours, but the question should be, What kind of equipment can best secure victory as quickly as possible with a minimum of casualties?

Believe it or not, there is equipment that is manufactured in other countries which is superior to our own—defense equipment—not many, because there is a tremendous imbalance between the amount and kinds of equipment that is purchased by our NATO Allies as opposed to the equipment that is purchased by the United States from our NATO Allies. But there still is some. For example, body armor. Body armor is used by the police departments, border patrol, and many law enforcement agencies, but not by the American military, because it is prohibited from doing so. Yet anyone who compares that manufactured in the U.S. to that manufactured in the Netherlands will testify it is superior equipment.

What is our priority here in the Dayton amendment? Is the priority to protect an American industry, and not allow our closest allies and friends to compete to sell their products, their defense equipment, to the United States of America, as we do in their countries? Everything from F–16s, to tanks, to incredible amounts of military equipment, because of our superiority, is purchased by our NATO allies, but we are going to be prohibited from purchasing any of theirs even if, in the judgment of the men and women in the military who test these things and make the judgments, and the Secretary of Defense—we are not going to buy it even if it is better equipment because we want to protect an industry in the United States of America? We have seen this protectionism going on here in the textile industry, even though the Caribbean countries are decimated because they cannot export their product to the United States.

Here we are talking about the lives of the men and women in the military. Can we not at least allow our military to look at equipment made by our closest allies to see if it is superior; that we might want to purchase it just as they purchase massive amounts of military equipment from us? Is the Senator from Minnesota—who, unfortunately, is not on the floor to respond—more interested in protecting an industry or more interested in protecting the lives of the men and women

fighting in the military? Don't they deserve the very best equipment we can procure? I am sorry, you cannot have the following equipment which is superior to that made in Minnesota because we want an industry in Minnesota to be protected. I don't get it. Frankly, neither will the men and women in the military who are unable to function in the most effective fashion if they are deprived of the ability to procure the most effective equipment.

We are talking about not every country in the world but our closest allies; we are talking about our closest friends—those who supported us in the war on Iraq and those who even sent troops, in the case of the British, to fight alongside ours.

If the Dayton amendment is approved, no British manufacturer can compete to sell equipment to the United States military. How do you justify that if it happens to be superior equipment? In the name of protectionism, we would deprive the men and women in the military of the best equipment we can find for them to fight and risk their lives.

Well, I have a second-degree amendment that states this removal of the Buy America equipment would not apply to our six closest Allies. I hope my colleagues will see their way clear to vote in favor of it.

Let me also tell my colleagues one other practical effect. We now tell these countries that we cannot, under any circumstances, buy their equipment. These are the same countries that are buying billions of dollars of our military equipment—F–16s, Abrams tanks, Apache helicopters. The list goes on and on. If you are running a company and you manufacture military equipment and you get the word that the United States, under no circumstances, will purchase it from you, what would you say about proposed purchases of American-made equipment? I think the answer is obvious. These are all freely elected governments, all governments that have to respond to their constituents. What will they say?

So the effect of this Dayton amendment, if passed, would be some $5.5 billion, which is the difference between what we buy from these countries and what they buy from us on an annual basis. I hope we will be able to adopt the substitute.

I understand my colleague's dismay and unhappiness about the performance of the French government and, to a lesser degree, the Germans and the Belgians but I also remind my colleagues there was a very large number of European countries that supported us, even in the face of public opinion which was against the government policy of supporting us in Iraq. So their support will now be rewarded by a prohibition from buying any military equipment they manufacture in their country. I don't think that is fair. I don't think it is right. Most of all, I think it is wrong if we are not going to purchase the best equipment no matter where it is produced in the world so our men and women in the military can best function in the safest and most efficient fashion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Madam President, I applaud the senior Senator from Arizona for offering this second-degree amendment in the nature of a substitute. To characterize this amendment and this whole debate, we are getting down to where this is truly a referendum on the people who supported us in the recent war. Our closest allies—people we are going to continue to go forward with in a very uncertain world—are they people we are going to continue to work closely with when it comes to times of conflict?

The waiver is only for those six countries that worked with us very closely in the recent Iraq conflict. We are probably limiting it down too far, but we are doing that to try to at least say to the people who want the underlying Dayton amendment that we are going to at least limit it to those six countries that worked with us most closely in the last conflict.

Right now, we sell to them and they sell to us. We sell to them in much greater numbers than they sell to us. Normally, when we are talking trade around this body, most countries are selling more to us than we are to them. Yet we are still trying to lower tariffs on a lot of those countries to try to increase more trade back and forth. But in this case, we dominate the defense industry in the world.

This amendment could threaten the domination we have of the defense industry in the world. This amendment would say to our allies we want to sell you our products, but we are not willing to buy your products. This, in effect, sets up a trade war with our closest allies. Do we want to do that? No one wins in a trade war. Everybody loses. This would send a very poor message at exactly the wrong time to set up a trade war.

Our closest allies worked with us, as we saw, in Iraq. They were working so well together in training, with our equipment, so that when we go into a conflict, our communications devices could talk to each other. If we set up this kind of a trade war, we can threaten that type of integration in our training.

I fully support this amendment the Senator from Arizona has proposed today. I think the underlying amendment is faulty, and we need to have this second-degree amendment in the nature of a substitute to make sure we do not go down the wrong path.

I want to inform the rest of the Senators what we are trying to do timewise, as far as the schedule is concerned. We are trying to work out a unanimous consent agreement now to have a vote, hopefully somewhere around 6 o'clock, if that is possible tonight, on the underlying amendment, and then possibly on the second-degree amendment, and possibly after that have a side-by-side vote on the Dayton amendment. We don't know whether or not that is possible. We are trying to work that out and to alert people of the potential schedule for tonight. There is no agreement worked out yet.

With that, Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam 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. Madam President, following the disposition of the matter pending before the Senate—that is the Dayton amendment and the second-degree amendment offered by the Senator from Arizona—I ask unanimous consent that the Senator from Washington be recognized to offer an amendment and make a statement and withdraw the amendment.

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

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

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

Mr. MCCAIN. Madam President, we are waiting for the imminent return of Senator WARNER so we can start a vote on the second-degree amendment. While we are waiting—F–16s: The Netherlands, Belgium, Norway, Denmark, Singapore, United Arab Emirates; F–18s: Switzerland, Finland, Canada, and Australia; Tomahawk missiles: United Kingdom, Israel; F–15s and F–16s, AAMs, air to air missiles, 31 countries we sell those to. All of that equipment is sold to these other countries, and they are at least under the understanding that they can compete to sell some of their equipment in our Nation.

It is remarkable. I would imagine that if the Dayton amendment goes through, we will see cancellations of a number of those commitments to buy that equipment from the United States of America. No other freely elected government would do anything else.

I ask the Senator from Minnesota again the following question: If there is a country that is a close ally of ours that can produce a better piece of military equipment at a lower price, and our military decides it is the best with which we can provide our men and women in the military, would the Senator from Minnesota reject that?

Mr. DAYTON. Madam President, I would not, in answer to the Senator's question, reject that. In fact, under

current law, that is permitted. The Secretary of Defense can determine under his sole authority that the items in question can be bought.

Mr. MCCAIN. Reclaiming my time, Madam President.

Mr. DAYTON. The Senator asked me a question.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. The Senator from Minnesota ought to read his own amendment because the effect of his amendment would be to prohibit these countries from competing to sell their military equipment in the United States of America. I think that is a great disservice to the men and women in the military, and it is protectionism at its worst.

I would hope my colleagues will vote for the second-degree amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, if I may respond to the Senator from Arizona, I believe the Senator misunderstands my amendment. My amendment strikes the language in the committee bill that would change current law. My amendment returns us to existing law. It is a law that has been on the books for 70 years. It is a law that has been followed by Democratic and Republican administrations. It permits everything the Senator described in terms of these various sales of equipment, machinery, food, light clothing made by other countries when the Secretary of Defense shall determine on his sole authority that it is not reasonably possible to acquire those products made in the United States. It just says try to buy American. It does not even require it. It says try to buy American.

It is a law that was passed in 1933. The Barry amendment was added specifically to the Department of Defense in 1941. The Senate committee bill would change current law, and my amendment simply strikes that change in the committee bill. It simply reverts us to current law, which has been good enough for Republican and Democratic administrations for 70 years and permits just what the Senator said.

I share the Senator's desire, absolutely. Our Armed Forces should have the best—the best equipment, the best clothing, the best food, the best of everything. They should get it as rapidly as possible. They deserve it because they are the most courageous men and women anywhere in the world, and they proved that once again in Iraq. Specifically, for all these years, Congress has made clear in existing law that none of that shall be sacrificed. Quality shall not be sacrificed, speed shall not be sacrificed, nothing shall be sacrificed. But when all things are equal and we have a choice, buy American because then those public dollars are all going to have an additional benefit of providing jobs or preserving jobs in the United States of America rather than going to people overseas.

That is a secondary public purpose. It does not conflict with the first, but when it can complement the first, Congress says do it that way. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, there is an old saying about everybody is entitled to their opinion, but not everybody is entitled to their facts. The Department of Defense, to whom we give the responsibility to carry out the procurement of weapons, says:

> These flexibilities—
>
> Which are in the bill—
>
> are needed to counter restrictions that severely impede the ability of the Department of Defense to promote our national security policy that calls for standardization and interoperability of conventional defense equipment used by U.S. armed forces and used by the armed forces of our allies and coalition partners. The Department of Defense should have authority to make exceptions to these restrictions in the interest of national security comparable to the public interest exception authorized by the Buy America Act. By providing these flexibilities, Congress better enables the Department of Defense to acquire the best equipment and technology available, promotes improved readiness and capabilities of the U.S. armed forces, strengthens coalition warfighting capabilities, promotes competition in contracting needs of the U.S. armed forces. . . .

Obviously, the Department of Defense has a very different view of the impact of this legislation than the Senator from Minnesota. My colleagues can decide where the expertise lies. I yield the floor.

Mr. WARNER. Madam President, I thank my distinguished colleague. We are ready to vote.

Mr. DAYTON. Madam President, I would like to have one minute to make a final comment, if I may.

Mr. WARNER. How much time does the Senator need?

Mr. DAYTON. One minute.

Mr. WARNER. Of course.

Mr. DAYTON. I thank the chairman.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, I acknowledge this current administration in charge of the Department of Defense is entitled to its point of view. I point out my amendment returns us to current law. That has worked and has given to Secretaries of Defense, including the present one, discretion to do what the Senator from Arizona described has already been enacted or put in effect in terms of defense procurement.

It also, however, says that American jobs are important. At this point in time when we have lost 2.8 million jobs in this country since this administration took office, I think this is symptomatic of their lack of awareness and concern for employing Americans and doing so whenever possible or putting them back to work. For this Congress and the Senate to take the position, with 2.8 million people out of work in the last 2½ years looking for jobs, exhausting their unemployment benefits because they cannot find jobs, to say we cannot even be bothered to try to buy American before we go elsewhere I think is shameful.

I yield the floor.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Before we commence the vote, I ask the distinguished Democratic leader if he would be willing to agree to a firm time agreement on this vote of 15 minutes to be followed immediately by a second vote of 10 minutes.

The PRESIDING OFFICER. The Democratic minority whip.

Mr. REID. Reserving the right to object, Madam President, I ask the Senator to modify his amendment so we would have a vote on the McCain amendment; regardless of the outcome of the McCain amendment, that will be followed by a vote on the Dayton amendment; that the McCain amendment be 15 minutes in length and the Dayton amendment be 10 minutes in length.

Mr. MCCAIN. Reserving the right to object, if the pending amendment prevails, then it prevails. If the pending amendment fails, then we would be agreeable to a voice vote.

Mr. REID. That may come later. At this stage, the Senator from Minnesota wishes a recorded vote.

Mr. MCCAIN. After his amendment has been second-degreed?

Mr. REID. Yes. The arrangement we worked out—and that is why we modified the unanimous consent request of the distinguished Senator from Virginia. Regardless of the outcome of the McCain amendment, we have asked for a vote on the amendment of the Senator from Minnesota.

Mr. WARNER. That would be 10 minutes?

Mr. REID. That is right.

The PRESIDING OFFICER. Does the Senator from Virginia so modify his unanimous consent request?

Mr. WARNER. So modified.

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

The question is on agreeing to amendment No. 783.

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 New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) is necessarily absent.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—50

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

NAYS—48

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Feingold	Lincoln
Biden	Feinstein	Mikulski
Bingaman	Graham (FL)	Murray
Boxer	Harkin	Nelson (FL)
Breaux	Hollings	Nelson (NE)
Byrd	Inouye	Pryor
Cantwell	Jeffords	Reed
Carper	Johnson	Reid
Clinton	Kennedy	Rockefeller
Conrad	Kerry	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Stabenow
Dayton	Lautenberg	Voinovich
Dodd	Leahy	Wyden

NOT VOTING—2

Domenici	Edwards

The amendment (No. 783) was agreed to.

Mr. WARNER. Mr. 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.

Mr. REID. Mr. President, I ask unanimous consent that the rollcall on the Dayton amendment be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Adoption of the McCain amendment makes the Dayton amendment moot.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, under the order, the Senator from Washington is to be recognized.

I ask if my understanding is correct, that there will be no more rollcall votes tonight? Senator WARNER and Senator LEVIN are going to work to see how much of the bill can be completed tonight—maybe all of it.

Mr. WARNER. Mr. President, I think that is a bit strong. The understanding on this side is that we would proceed on into the night.

Quite candidly, I say to colleagues, we are hoping to, one way or another, either accept the amendments or stack votes tomorrow morning which would be consistent with the Senator's representation that there will no further rollcall votes tonight. But tonight many Senators are going to participate on the floor in the proposal of these amendments or action on them.

Mr. MCCAIN. Mr. President, I ask the Senator from Nevada if we have all of the amendments from that side which are going to be proposed?

Mr. REID. No. The minority has not offered all the amendments which they intend to offer. I have kept in very close touch with the two managers of the bill. They know which amendments we now have.

Mr. WARNER. Mr. President, I think the Democratic leader and I have pretty well stated the case for the evening.

Mr. REID. Senator SCHUMER is near ready to offer his amendment. That will require a vote tomorrow for sure. There are a couple of other amendments we are working on.

Mr. WARNER. Might I inquire about the amendment of the Senator from California?

Mr. REID. She has indicated that she will not be ready to vote tonight. We are going to have to work on that in the morning. The Senator from California has been working with our manager. We hope to be able to work something out on that. We don't have that finished yet.

We also have explained to the Senator from Virginia that Senator BYRD has a problem, and we are going to try to work that out.

Mr. WARNER. Mr. President, I am working on that problem. It is a very legitimate request. I am working on that tonight.

Mr. REID. Until we get Senator BYRD's problem resolved, we can't have time for final passage.

Mr. WARNER. The Senator has made that case clear. So far as I know, I can say for my side, I know of no request at this time for a rollcall vote. We will work through the amendments this evening.

Mr. LEVIN. Mr. President, will the Senator yield? Do we have a list of all of the amendments on the Republican side?

Mr. WARNER. I think we are pretty near complete on that list. I have indicated to my colleagues that by this time they should have brought the amendments to the managers.

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

Mrs. MURRAY. Mr. President, as many of my colleagues know, I have come to the floor for 6 of the past 7 years to offer the Murray-Snowe amendment to lift the restrictions on privately funded abortions for our military women serving overseas. We have offered this amendment virtually every year since 1996 with the hope that one day women in the military would not be required to sacrifice their constitutional right when they serve overseas.

Since 1996, this amendment has twice passed on the Senate floor only to be killed during conference. This amendment has always been relevant and germane, even in postcloture debate. The amendment simply ensures access to safe and legal reproductive health care for our military personnel. Access to safe and legal health care is certainly relevant when discussing the Department of Defense authorization bill.

I find it extremely hard to understand how after these 7 years this topic is suddenly no longer relevant. It does not make sense. I think it is an outrage and an insult to the women who serve in our military. I would never want to have to tell a woman in our Armed Forces who is risking her life to serve our country overseas that her health care is irrelevant in the Senate.

The intent of the Defense authorization bill is to ensure that our military has the resources and support it needs to protect all of us. The health of our female service members is certainly a key ingredient in a successful military. Today, women are serving side by side in combat situations and in hostile war zones. Women are a critical part of our military. They serve in leadership roles, and they provide outstanding service. Their health care is relevant. I don't know how many of my colleagues could come to the floor and argue any differently.

I thank the cosponsors of the amendment, including Senators SNOWE, BOXER, CANTWELL, COLLINS, SCHUMER, JEFFORDS, and CORZINE.

My amendment would eliminate the restrictions on privately funded abortions only. It doesn't change conscience clauses for military personnel. It doesn't require direct funding, and it would not result in a huge new mission for military health care.

Under current restrictions, women who volunteer to serve their country—and female military dependents—are not allowed to exercise their legally guaranteed right simply because they are serving overseas. These women are committed to protecting our rights as free citizens. Yet they are denied one of the most basic rights accorded all women in this country. Women depend on their base hospital and military care providers to meet all of their health care needs. Singling out abortion-related services could jeopardize a woman's health.

The truth is, women serving overseas have very few options when facing a difficult pregnancy. They can seek care in a host country, but few countries have the standard of health care that we take for granted here at home. These women service members can seek leave—not medical leave—and be transported back to the United States.

These are difficult options which put women's lives in jeopardy. That is why retired GEN Claudia Kennedy, the Army's first woman three-star general, supported my amendment. She has firsthand knowledge of women who face this difficult experience, and she wrote to me about one of those women. She told me:

> [T]hat in a very vulnerable time, this American who was serving her country overseas could not count on the Army to give her the care she needed.

The impact of this unconstitutional restriction on women's health is supported by the American College of Obstetricians and Gynecologists, the American Medical Women's Association, Physicians for Reproductive Choice and Health, and the National Partnership for Women and Families.

In the past, some have argued that allowing privately funded abortions in military facilities overseas would be a huge burden that the military couldn't meet.

I wish to point out that the previous administration endorsed my amendment and saw no problems implementing this policy.

I also add that under current law the military is required to provide abortion-related services when a woman's life is in jeopardy in the case of rape or incest. To say that the military cannot provide this service calls into question that ability to meet current law.

In the past, we have had concerns raised about objections from host countries. Abortion is illegal in many countries, as is family planning for unmarried women. In some countries, simply allowing them to drive can violate local customs and laws.

I think the military has a long tradition of respecting the laws and customs of host countries without delegating women to second-class citizenship status or sacrificing our own proud history of equal treatment under law. Current restrictions humiliate servicewomen by forcing them to seek the approval of their commanding officer in order to travel back to the United States for abortion services.

We know from a previous GAO report issued in May of 2002 that many commanding officers ''have not been adequately trained about the importance of women's basic health care.'' Department of Defense officials say that lacking this understanding, some commanders may be reluctant to allow active-duty members, both women and men, time away from their duty stations to obtain health care services.

Many women are forced to seek care off the base or wait until leave can be arranged without approval from a commanding officer.

Many women are forced to delay the procedure for several weeks until they can travel to a location where safe and adequate care is available.

I have to tell you, I do not see why lifting this offensive and dangerous restriction now—this year—is not relevant to a Department of Defense authorization bill. Isn't it our goal to provide the resources and support for our military personnel? How can the health and safety of women who serve in the military all of a sudden be called not relevant?

I have been told that if I offer this amendment, the Chair is going to rule it out of in order on the claim it is not relevant, so I have no choice but to withdraw my amendment.

I do not know how we explain to military servicewomen that their health care is not relevant or that supporting their access to safe and legal reproductive health care is somehow now not part of the Defense authorization bill.

This is a sad day for our country when women who are serving their country overseas are told their health care is not relevant by the Senate.

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

Mrs. MURRAY. I am happy to yield for a question.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I am asking the Senator from Washington to yield for a question.

Frankly, I am surprised, and I think it is a travesty that you are not able to offer your amendment. I do not understand on what legislation this would be relevant if not this legislation. I know you have offered it previously on the Defense authorization. I have voted for it on the Defense authorization on previous occasions. And this seems to me to be the same kind of trap we have discovered now with respect to the amendment dealing with concurrent receipts for retired veterans who also have been disabled who are prevented from collecting both. We are told that is not relevant. My amendment to scrap the 2005 base closing round, we are told that is not relevant.

I wonder if there is any legislation on which these kinds of amendments would be more relevant than the Defense authorization? It is where they should be offered. It is the location of this debate. It is where this debate must be held. Somehow we have gotten into this trap of being told this is not relevant. Clearly, it is relevant.

So can the Senator from Washington tell me, is there another piece of legislation where this would be more appropriately offered? I cannot think of one.

Mrs. MURRAY. The Senator is absolutely correct.

There is no other piece of legislation that is before us where this is relevant. In fact, I have offered this six times on the Department of Defense authorization bill, even postcloture, and it was considered relevant.

I am shocked and amazed that women are being told today they are not relevant. I am furious that women are being told they are not relevant when it comes to the Department of Defense, when it comes to their health care, and when it comes to the Senate.

Mr. DORGAN. If the Senator will yield further for another question, if you offered this postcloture on previous occasions—it relates to a question that was asked yesterday—has the judgment about what is relevant changed here in this Chamber? The answer to that, in my judgment, is yes. In my judgment, this would have been relevant under almost any other set of circumstances.

But I wonder if the Senator from Washington would agree with me that we should never, ever again—I will never, ever again allow a unanimous consent agreement on the floor of the Senate on an authorization bill of this type to decide that we will restrict ourselves to relevant amendments. If the definition of ''relevancy'' is reasonable and thoughtful, then that is just fine with me, but in this case it has not been.

It is a travesty of justice that the Senator from Washington is not able to offer her amendment today. The same is true with concurrent receipt, and the same is true with base closings. So I would say there will not be a unanimous consent request that gets consent to say on the next authorization bill we will limit ourselves only to relevant amendments.

It is quite clear now the definition of ''relevancy'' has changed in a way that disadvantages the Senator from Washington and others who want to offer amendments that are clearly relevant to this bill and have always been relevant to this bill, but now we are discovering, for some reason, it has been ruled nonrelevant. I think that is a travesty.

I say to the Senator from Washington, would the Senator agree that she would want to join those of us who object to these further unanimous consent requests on future bills with respect to relevancy, if this is the way ''relevancy,'' if this is the way ''relevant'' is going to be defined here in the Senate?

Mrs. MURRAY. I hear the Senator, and I absolutely agree. And I will join with any Senators who object to any bill coming up when the word ''relevant'' is being used.

I have been in public policy for almost two decades now, and ''relevancy'' and ''germaneness'' have meant specific things to all of us, and we have offered relevant amendments, including the amendment I meant to offer tonight, and they have always been relevant. They have been relevant on this bill six times already, even postcloture.

It seems to me now we have a definition for ''relevancy'' that is above the definition of ''germaneness,'' and that is simply unbelievable to me. I concur with the Senator, the only thing we have left is to not agree to any unanimous consent requests that use the word ''relevancy.''

But I say to my colleague, it seems to me the word ''relevancy'' is now putting a lot of people into being irrelevant: veterans, when it comes to concurrent receipt; communities that are trying very hard to keep stable, when it comes to base closures; and now women—we are all irrelevant. I find that extremely upsetting.

Mrs. BOXER. Mr. President, will the Senator yield for a question?

Mrs. MURRAY. I am happy to yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I just want to say to my friend from North Dakota and my friend from Washington State—who has been such a leader on women's issues, family issues, and children's issues—and to my friend from Illinois, who is in the Chamber, who I know is also concerned about this—this is really the first time I have ever seen a circumstance quite like this.

When the Senator from North Dakota says it is putting the Senator

from Washington at a disadvantage, I have a question for the Senator from Washington.

When the Senator from North Dakota says she is put at a disadvantage, let me just say it goes far beyond that. Who are being put at a disadvantage here, I would say, are the women who serve in the Armed Forces. My God, we lost them in Iraq. We all know the story of Jessica Lynch. We all revere the men and women in uniform. And in this bill, we know, unless my friend gets a chance—a chance—to remove a restriction, a woman in the military who finds herself in a very troubling situation, who wants to exercise her legal rights, a health care right that is legal and constitutional—she cannot even use her own money and have a safe abortion. This is the fact.

I say to my friend, yes, my friend is being inconvenienced, but I know she stands up for the women in the military tonight. It is a very sad night to hear that the most relevant of amendments that deals with women in the military cannot be offered.

I say to my friend—because I will ask her a question—does she not believe this is a slap from the Senate to the women who are serving so bravely in uniform?

Mrs. MURRAY. The Senator from California is correct. This is a real slap in the face to the women who serve us overseas in the military, who are asked every single day to protect us, to fight for what we believe in, to fight for our freedoms. They are being told they are second-class citizens and, worse yet, they are irrelevant in the Senate.

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

Mrs. MURRAY. I am happy to.

Mr. DURBIN. Mr. President, I asked the Senator if she would yield for a question.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. It is my understanding that you have not offered this amendment at this point.

Mrs. MURRAY. I have not offered it yet. I am about to make a request to do so.

Mr. DURBIN. I would like to ask, on your consent, to be added as a cosponsor of this amendment, if that meets with your approval, first.

I would like to ask, initially, is it not true that this question of relevancy has been directed to the Parliamentarian of the Senate?

Mrs. MURRAY. That is correct.

Mr. DURBIN. And you have submitted your amendment to the Parliamentarian, and they have said it is not relevant to the bill?

Mrs. MURRAY. That is correct. We have submitted it to the Parliamentarian, who told us it was not relevant. We came back and worked to try to change the language. We were told it needed to touch four corners. I don't have a clue what that means, but we were told it would be ruled irrelevant.

Mr. DURBIN. You offered this amendment to this same bill on six different occasions?

Mrs. MURRAY. That is correct.

Mr. DURBIN. It appears we either have a new rule or the rule has changed when it comes to the Department of Defense authorization bill.

Mrs. MURRAY. The rules have definitely changed, I say to the Senator, because I have offered this amendment postcloture and it has been considered relevant before.

Mr. DURBIN. If I recall correctly—the Senator can correct me if I am wrong—but postcloture there would even be a higher standard.

Mrs. MURRAY. That has always been my understanding of the issue of germaneness and relevancy. So I am at odds with the definitions we have been presented with at this time.

Mr. DURBIN. The Senator from North Dakota has made it clear, when we tried to offer an amendment on the Base Closing Commission—which is included in this bill, incidentally, and which was created by this bill—it, too, has been judged irrelevant.

I would like to ask the Senator this question: If an amendment is considered germane, does the Senator not agree with me that it, in most interpretations, has passed the test of relevancy? Isn't that a lower standard by parliamentary rule?

Mrs. MURRAY. I have always understood the definition of ''relevancy'' to be a lower standard than the issue of germaneness.

Mr. DURBIN. May I make a parliamentary inquiry of the Chair?

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. DURBIN. Would the Chair state for the record the standard that is being used to determine the relevancy of amendments being offered?

Mr. WARNER. I object.

The PRESIDING OFFICER. Objection is not in order.

Mr. WARNER. I apologize to the Chair. I have six things going on at one time.

Mr. DURBIN. I made a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois has made a parliamentary inquiry. The Chair is considering the inquiry. There is a parliamentary inquiry pending.

This is the test of relevancy:

> When relevancy of amendments is required by a unanimous consent agreement, that test is broader than the germaneness test as it is a subject matter test, and amendments that deal with the subject matter of the bill to which this requirement attaches are in order, provided they do not contain any significant matter not dealt with in that bill.

Mr. DURBIN. May I ask a further inquiry of the Chair. Could he make reference to what he has just read.

The PRESIDING OFFICER. From page 1362 of Riddick's Procedures, footnote 352.

Mr. DURBIN. Might I ask, further parliamentary inquiry, do I understand what the Chair has just said as a response to my inquiry that the standard for relevance is higher than the standard of germaneness?

The PRESIDING OFFICER. No, it is not.

Mr. DURBIN. So if this amendment has been found to be germane postcloture with previous bills, it would suggest to me it obviously has met the standard, at least the standard of relevance.

The PRESIDING OFFICER. The Chair would suggest the language in previous bills is not exactly the same as the language in this bill.

Mrs. MURRAY. Mr. President, reclaiming my right to the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I find that simply astounding. Department of Defense bills are essentially language that changes for different military programs, all kinds of things in the bills. But certainly the issue of whether or not a woman has a right to have safe and legal health care overseas when she is serving her country has been ruled as germane in the past. It seems obviously pretty out of order and extraordinary that that would be where we are tonight.

Let me just do this, because I think all of us agree this amendment is one that has been considered on the bill before. It does deal with a woman's ability to have safe health care. It is one that has been ruled germane twice in postcloture times. I would just ask unanimous consent that the rule on relevancy at this time be waived so I can offer the amendment tonight, because I think it is important that we allow a procedure that has been done many times before to continue under this bill.

I ask unanimous consent to do that.

The PRESIDING OFFICER. Is there objection to waiving the unanimous consent request?

Mr. WARNER. Objection from the Senator from Virginia.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. Mr. President, I find that very troubling. I find it troubling the Senate has now decided to change the definition of relevancy we have operated under in the Senate as long as I have been here. It appears very clear to me now that the issue of relevancy is a much higher standard than the issue of germaneness. We have stepped into a realm most of us are going to be very sorry we are in.

I again will say to my colleagues that having objected to waiving this relevancy, having listened to how we have now changed the definition of relevancy, what we are really doing is saying to women in this country they are irrelevant. I find that to be very sad, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. May I say to my distinguished colleague from Washington that I recognize through the years she has been a steadfast proponent for those women in the armed services faced with the difficult choice you have

outlined to the Senate tonight. I express regret, but the distinguished ranking member and myself have been, throughout the deliberations on this bill, not acting in any way as the Supreme Court to overrule the ruling of the Parliamentarian on these amendments. We have tried to be fair, equitable on both sides. We have not waived one time. It is with regret that I had to interpose this objection because I recognize the merits of the amendment which you have had. You have done it now how many years, Senator?

Mrs. MURRAY. Seven years.

Mr. WARNER. Seven years.

Mrs. MURRAY. Mr. President, will the Senator yield for a question?

Mr. WARNER. Yes, indeed.

Mrs. MURRAY. I ask the Senator from Virginia, what I am having trouble understanding is why an amendment that has been considered germane in the past tonight under the ruling is not considered relevant. I would ask the Senator from Virginia if he is not also troubled that we have now set a definition for relevancy that is higher than the standard for germaneness that may indeed trouble us far into the future?

Mr. WARNER. Mr. President, I respond to my colleague, with all due respect, I will not try and engage in an evaluation of how the Parliamentarian goes about the votes; that is, determining whether or not each amendment is relevant. But I would say I do not recall in years past the issue of relevancy having been raised on the Senator's amendment. I stand to be corrected.

Mrs. MURRAY. Mr. President, if I could just respond to the Senator, this amendment I am offering tonight in the past has been ruled in postcloture as germane. I am now tonight being told it is not relevant.

Mr. WARNER. It depends on the content of the bill to which that ruling was addressed.

Mrs. MURRAY. I would add this amendment has been offered seven times, virtually every year since 1996, on this exact bill, the Department of Defense authorization.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me try to understand this a bit, what the circumstances are. My understanding is the Senator from Washington has propounded a unanimous consent request that has been objected to that would have allowed her to offer her amendment notwithstanding the ruling on relevancy. My understanding is this amendment is now viewed as nonrelevant to this bill, despite the fact it has been offered seven times before. If it is nonrelevant to the Defense authorization bill, I would like to ask the Chair what would be the circumstances in the Senate from a parliamentary standpoint if the Senator from Washington offered this amendment to the Defense appropriations bill? In a moment I would like to get a response if I could because there are two bills that come to the floor of the Senate that we know each year are going to deal with the issue of defense. One is the Defense authorization bill, and the other will be Defense appropriations. If this is deemed nonrelevant to the Defense authorization bill, I would ask the Presiding Officer whether the amendment could be offered to the Defense appropriations bill without a point of order being made?

The PRESIDING OFFICER. It is not possible to prejudge a ruling when the content of a bill is not before us.

Mr. DORGAN. Let me inquire further, if I might. Would this amendment, based on the knowledge of the Parliamentarian about the amendment, would this amendment be considered legislating on an appropriations bill should it be offered to an appropriations bill?

The PRESIDING OFFICER. We do not have the amendment in front of us because the Senator has not called it up.

Mr. DORGAN. To the extent the Office of the Parliamentarian has ruled the amendment nonrelevant, my assumption is the Office of the Parliamentarian has certainly understood the amendment, reviewed it, and determined it to be nonrelevant.

If that is the case, if the Office of the Parliamentarian understands the amendment, my question remains, if this amendment is offered during consideration of Defense appropriations, would there be a point of order against the amendment as legislating on an appropriations bill?

The PRESIDING OFFICER. It is probably a legislative amendment.

Mr. DORGAN. Mr. President, that means if it is a legislative amendment on an appropriations bill, there would be a point of order against it; is that the case?

The PRESIDING OFFICER. It is possible a point of order would lie.

Mr. DORGAN. So a point of order could be raised that would lie against the amendment because it is then legislating on an appropriations bill. If that is the case, as I understand the answer from the Chair, we are in a circumstance where we have told the Senator from Washington that her amendment dealing with an important issue—clearly to the center of this bill on Defense—cannot be offered on the Defense authorization bill because it is not relevant to the Defense authorization bill.

Then the Senator would be told later, when she tries to offer it to the Defense appropriations bill, this is legislating on a Defense appropriations bill and a point of order would rise against it. Why? Because she should have offered it to the authorization bill.

Can someone tell me whether that is not a Catch-22 for the Senator from Washington and others? Have we not put her and others in a circumstance where they are prevented from offering this amendment under every circumstance? Isn't that the case? We say to her, you cannot offer it on the authorization bill. So then she comes to the Defense appropriations bill and offers it. The point of order is raised, and the point of order says, you know what, you cannot offer it on appropriations. You should have offered it on the authorization bill.

That is what the Senator from Washington is going to be told. I just ask the rhetorical question, Does anybody in the Chamber think that is fair? Not me.

I know there wasn't a deliberate attempt for anybody to be unfair, but I make the point that the consent request entered into with respect to this issue of relevancy has put people in a position—especially Senator REID, myself, and Senator MURRAY from Washington on this issue—that is pretty untenable. But that is the position we are in.

I think the way to get out of it is to understand that somehow these things could be offered, or should be offered, and a unanimous consent be allowed for these issues to be debated and voted on. I cannot believe it would have been the intent of my colleague from Virginia, or the ranking member from Michigan, to say we want to prevent an amendment that has been offered seven times previously to this bill, which we all understand is clearly relevant to the bill.

Again, I say as I said yesterday, the folks who understand this process from our side were very surprised at the issue of relevancy and how the rulings on relevancy occurred. I know yesterday during this discussion a question was propounded by my colleague from Virginia, the chairman, to the Presiding Officer to ask whether the standard of relevancy has changed. And the answer was, no, it has not.

That is not accurate. It clearly has changed. My colleague from Washington is evidence of that. If her amendment was germane postcloture previously, then her amendment, by definition, had to have been relevant postcloture. And if it is relevant then, and it is not relevant now, the standard has changed.

I don't think that was the intention of the chairman or ranking member with respect to her amendment—mine or any other amendment. I am not asking or suggesting bad faith on anybody's part, but we have an unintended consequence. If an unintended consequence says to the Senator from Washington, I am sorry, you cannot offer your amendment on the authorization bill, and when you try it later—as she will and must—on the appropriations bill, she will be told she should have offered it on the authorization bill, that puts her in a position that is unfair.

I yield the floor.

Mr. DURBIN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURBIN. Mr. President, I would like to ask for clarification because I

think this is an important question. If you would provide a response to the following parliamentary inquiry, it is my understanding—in fact, I have the amendment before me that has been suggested by the Senator from Washington. This is an amendment that relates to the use of Department of Defense medical facilities, and it amends section 1093 of title X of the U.S. Code, as amended.

Now, if the Chair would just take legislative notice of the bill, S. 1050, and turn to page 157, you will see title VII, ''Health Care.''

Now, if you turn to page 10, you will find in section 703 an amendment—language within the authorization bill relative to extension of authority to enter into personal service contracts for health care services to be performed at locations outside medical treatment facilities. It goes on to amend section 1091(a)(2) of title X. Here we have an amendment relative to health care, relative to the medical treatment facilities managed by the Department of Defense, which seeks to amend section 1093.

Already in this provision of the bill, we amend section 1091. Can the Chair tell me how we can amend the same section of the law relative to medical treatment facilities, and the amendment being offered by the Senator from Washington not be a relevant amendment? It is in the same section relative to health care, on the subject of health care. It relates to Defense medical facilities, as do many of the amendments within that section.

Yet the Chair is telling us it is not relevant language to this section of the pending bill, which the Senator from Washington seeks to amend.

The PRESIDING OFFICER. The Chair is considering the inquiry.

The point is whether the issue presented by the Senator's amendment is addressed in the bill, which it is not.

Mr. DURBIN. Further parliamentary inquiry.

The issue being addressed by the Senator from Washington is the treatment afforded at Defense medical facilities. If the Chair will note in section 703 of the bill, it relates to the treatment afforded at Defense medical facilities. How much more relevant could this be?

The PRESIDING OFFICER. The advice given on this were preliminary rulings, subject to further information, based upon information available at the time the amendment was presented.

The Chair is not aware that this argument has ever been presented to the Parliamentarian's Office. The burden would be on the sponsors to make that case.

Mr. DURBIN. Further inquiry: If the Senator from Washington should submit this amendment now, will it then be incumbent upon the Chair and the Parliamentarian to rule on its relevancy?

The PRESIDING OFFICER. The ruling would only be made if the amendment is challenged under the unanimous consent request. The Senator from Washington—

Mr. LEVIN. Will the Senator yield?

Mr. DURBIN. Yes.

Mr. LEVIN. Mr. President, if this amendment is presented at this time to the Parliamentarian, will we obtain a ruling as to whether or not it is relevant?

Is there any reason why the request of the Parliamentarian, relative to this amendment as to whether or not it is relevant, cannot be responded to by the Parliamentarian at this time or at any time?

The PRESIDING OFFICER. If a ruling is requested, a ruling will be issued.

Mr. LEVIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 691

Mrs. MURRAY. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Ms. SNOWE, Ms. Boxer, and Ms. CANTWELL, proposes an amendment numbered 691.

The amendment is as follows:

(Purpose: To restore a previous policy regarding restrictions on use of Department of Defense facilities)

At the end of title VII, add the following:

SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking ''RESTRICTION ON USE OF FUNDS.—''.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Virginia.

Mr. WARNER. Mr. President, I suggest the absence of a quorum to allow time in which the Parliamentarian can examine the amendment.

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. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, Senator MURRAY is waiting for a ruling from the Chair on her parliamentary inquiry.

In the meantime, I ask unanimous consent that Senator CARPER be recognized to speak for up to 10 minutes, and that following his speech, the Senator from Washington be recognized.

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

The Senator from Delaware.

Mr. CARPER. Mr. President, I thank the assistant Democratic leader.

Mr. President, in considering the military priorities of our country, we are addressing one of the most important challenges facing our Nation and its Government. That challenge is to transform America's military to meet the threats of this century the 21st century, and to do so in an environment of increasingly severe budgetary constraints.

The spectrum of potential conflict in which America could find itself engaged over the coming years is practically limitless. From fighting major regional powers to pursuing shadowy bands of terrorists, the missions our military must be ready to perform are many, and they are varied.

Unfortunately, the resources available to us in preparing to meet these challenges are not without limit.

What was the largest surplus in the history of this Government just 2 short years ago has given way to the largest deficit in our Nation's history. And this has happened at a time when the demands on the Federal budget are growing and will continue to grow.

Recent reports out of Iraq indicate that the task of post-war reconstruction will be neither easy nor cheap. Recent events in Saudi Arabia and Morocco indicate that the war on terrorism may still be in its infancy.

There are also domestic priorities that demand attention. The bipartisan education reform initiative passed in the first year of the President's term has yet to be fully funded. There is a growing recognition that our health care system is fraying at the seams. And the baby boomers, my generation, are marching toward retirement. When they get there, it will place unprecedented strains on Social Security and Medicare.

Our present course is not sustainable. We will soon be asked to raise the ceiling on the national debt by nearly $1 trillion. At the same time, the administration is projecting that within 5 years funding for defense will rise to more than 20 percent above cold-war levels. Even at that high level, moreover, it is doubtful that the defense budget could accommodate the full cost of the administration's plans as they currently stand.

This is our dilemma. We cannot afford to forego military transformation. The threats to our security are simply too great. But neither can we afford to proceed without consideration to cost. After all, it is our quality of life that the military is charged with defending. It is that same quality of life that will eventually begin to erode in the absence of a sense of fiscal balance.

What I want to talk about for a few minutes this evening is one of the central components of military transformation. I want to talk both about its importance and about some of the choices we can make to address our security requirements in this area in a cost-effective manner.

Strategic airlift will be one of the cornerstones of successful military transformation. The imperative to transform our military is driven by the necessity to project force faster, with

greater precision, and over greater distances. As President Bush stated in his commencement address at the U.S. Naval Academy in May 2001, America's future force will be ''defined less by size and more by mobility and swiftness.''

In the wake of the cold war, the United States has closed two-thirds of its forward operating bases. Yet the four services are all in the process of speeding up the timeframe in which they expect to deploy troops and equipment to the far corners of the globe.

The Army's stated goal, for example, is to deploy an Interim Brigade Combat Team—complete with 3,500 personnel, 327 armored vehicles, 600 wheeled vehicles, air defense weapons, artillery, and engineering equipment—anywhere in the world within 96 hours. Airlift is the only means to accomplish this objective.

In March 2001, the Joint Chiefs of Staff completed a review of our Nation's strategic airlift requirement. This study was completed before September 11 and all that has flowed from that terrible day. Still, the conclusion of that study was that the Nation's airlift requirement had risen 10 percent sine the last study was conducted just 5 years before.

Many believe that the changed security environment post-September 11 has actually increased our strategic airlift requirement still farther. We are requesting, as part of this bill, that a new review of the strategic airlift requirement going forward be conducted. We expect that what we will find is that the airlift requirement is higher than the 54.5 million ton miles per day specified before September 11.

Regardless of whether the requirement has risen or not, however, the fact remains that our present capacity falls short of the requirement as it was spelled out just 2 years ago. The question we must answer, therefore, is how will we maintain and how will we build a strategic airlift fleet that will meet the relevant requirement and do so without busting our budget even more. In other words, how do we provide cost-effective strategic airlift for the 21st century?

Some of the Air Force have launched a campaign to retire more than half of the Air Force's C–5 fleet over the next few years, specifically those that date back to the 1970s, the C–5As. Maintenance problems, particularly engine problems, have plagued the C–5As for years. The solution for some in the Air Force is to simply get rid of them and to rely primarily on the procurement of new aircraft to meet our growing strategic airlift requirement.

In order to meet the new, higher requirement for strategic airlift in the 21st century, we will certainly need to purchase new aircraft. The Air Force is currently in the process of purchasing some 180 new C–17s. I support this purchase. The C–17 is an excellent aircraft, and we are excited that a squadron of 12 C–17 cargo aircraft will be stationed at Dover Air Force Base in Delaware beginning in 2008.

Having said that, sending more than half of our Nation's C–5 fleet to the ''boneyard'' makes no sense. The C–5 is, and will continue to be, the workhorse of American airlift. The C–5 completed nearly 5,000 sorties during the recent Iraq war and delivered nearly half of the cargo and troops into combat.

Moreover, a balance of C–5s and C–17s offers the Air Force an advantageous mix of complementary capabilities. The C–5 can carry more, and can carry farther. The C–17 is more maneuverable on the ground. During the war in Afghanistan, much of the cargo was flown from the continental United States to Europe in large loads aboard C–5s. The cargo was then broken down into smaller loads and flown into theatre by C–17s.

As a former naval flight officer who has known firsthand the frustration of naval aircraft that had a propensity to break down, I can empathize with the frustration that some in the Air Force feel with respect to the C–5As chronically low mission-capable rates. But scrapping the entire platform is not the answer.

The wings and the fuselages of both the C–5As and the C–5Bs have useful lives—listen to this—of another 30 to 40 years. For the cost of purchasing a single new C–17 cargo aircraft, three C–5s can be outfitted with reliable new engines, modern hydraulics systems, and landing gear components, plus a new avionics package and radios that will bring C–5 cockpits into the 21st century.

All of these upgrades are off the shelf. They are readily available, and they are capable of bringing the mission capable rates of the C–5s in line with those of the C–17s.

Given the fact that one C–5 can haul 80 percent more cargo than one C–17, the same dollar invested in modernizing C–5s produces more than five times the airlift capacity of the same dollar invested in the purchase of new C–17 aircraft.

A strategic airlift fleet with a full complement of C–5s and C–17s offers the best of all worlds. Retaining the enormous cargo capacity of our C–5s, both As and Bs, will make it easier to achieve the full airlift requirement of our Armed Forces in the 21st century. Maintaining a healthy balance of C–5s and C–17s will offer the Air Force maximal operational flexibility. And taking full advantage of the cost savings that comes from modernizing, as opposed to scrapping, the C–5As will free-up resources to meet other Air Force priorities and reduce our Federal deficit over the long run.

Choices that are more cost-effective by ratios of 5-to-1 are precisely the kinds of choices we ought to be interested in making as we seek to transform our military without burying our children in red ink.

I want to take a moment, in closing, to thank a number of members of the Armed Services Committee. I particularly thank Senators WARNER, LEVIN, KENNEDY, and TALENT for the work they have done to ensure that we continue to capitalize on the contribution that the C–5 can make to cost-effective strategic airlift in the 21st century. Besides calling on the Air Mobility Command to look again at our Nation's airlift requirement, this bill keeps C–5 modernization on track. In particular, it specifies that 18 C–5Bs and 12 C–5As will be revamped with modern avionics in fiscal year 2004.

This is a win—a win for our fighting men and women, and it is a win for the American taxpayer.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to commend our distinguished colleague from Delaware. He has worked very diligently on this issue since the first moment he joined the Senate. You have been very helpful to the distinguished ranking member and myself in bringing these matters to our attention and to other members of the committee. I think the Department of the Air Force and indeed the whole Armed Forces that are so heavily dependent on airlift owe you a debt of gratitude.

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

Mr. LEVIN. Mr. President, will the Senator yield?

Mrs. MURRAY. I yield for 30 seconds.

Mr. LEVIN. I join in the commendation to the Senator of Delaware for his tenacity in keeping airlift available.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I understand the Senate is waiting for a ruling from the Parliamentarian of the relevancy of the amendment I sent to the desk and I ask if that ruling is ready.

The PRESIDING OFFICER. It is the opinion of the Chair, with the additional information provided, the Senator's amendment is relevant.

The Democratic whip.

Mr. REID. Mr. President, I have had a conversation with the Senator from Washington. She would be willing to enter into a reasonable time agreement. She would want to complete that debate tomorrow, however, in that the hour is late and she has spent so much time here already. I would be happy to work with the two managers of the bill to come up with a reasonable time she can debate this in the morning and have a vote on it in the morning.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. My understanding is you are not making a request, you are just advising the Chair and the Senate. I wish to, in courtesy, advise you I know of at least one amendment in the second degree and there could be two.

Mr. LEVIN. Would the Senator yield? Who has the floor?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I am wondering whether we will have the language of those amendments or amendment this evening?

Mr. WARNER. Mr. President, I would have to inquire of the language of the amendments.

Mr. LEVIN. Any second-degree amendment.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I would like to make two comments in morning business, not on the bill. I want to leave it to the Senators from Virginia and Michigan if there is anything they want to do on the bill this evening.

Mr. WARNER. Mr. President, we are endeavoring to do a good deal of work on the bill this evening. I don't know the duration of the time the Senator wishes.

Mr. DURBIN. I ask for 5 minutes in morning business.

Mr. WARNER. As soon as we are able to conclude the matters relating to the amendment of the Senator from Washington, I can better answer the question.

Mr. President, I wish to advise my colleagues on our side we, of course, had relied upon the previous ruling of the Parliamentarian. Therefore, these amendments are not yet ready.

Mr. LEVIN. Would the Senator yield?

Mr. WARNER. Yes.

Mr. LEVIN. Do you expect they would be ready tonight if we are here for an additional half hour?

Mr. WARNER. I think there is an opportunity they could be ready. We are checking.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. We would be willing to enter into a time agreement if we saw the amendments and they were reasonable and we thought we could do that. But not having them, we can't do that. The Senator from Washington, if there would have been an up-or-down amendment, would have agreed to a 40-minute time limit evenly divided.

Mr. WARNER. Do I understand the distinguished leader to say 40 minutes equally divided?

Mr. REID. That is right. I would note we have very few amendments. Senator DODD has one. Senator DASCHLE has one. Senator BOXER has one we have already discussed, and Senator BIDEN has one. We have very few amendments. Some of these may be worked out by the managers. The Daschle amendment, as we have indicated, would be 20 minutes evenly divided. The Schumer amendment has been declared not relevant so we can't take that up. The Boxer amendment, we agreed to a one-hour time agreement on that. Both managers know what that amendment is. Senator BIDEN has agreed to 30 minutes on his amendment if it is not agreed to.

Mr. WARNER. Mr. President, I am informed we have not seen the Boxer amendment.

Mr. REID. Well, she was showing it to anybody who wanted to look at it.

Mr. LEVIN. Mr. President, let us try to obtain a copy of that amendment, if I could ask the Senator from Nevada.

Mr. WARNER. I think it would be best served if we put in a quorum call so we can try and put the pieces together.

Mr. President, as I understand, the distinguished Senator from Illinois wishes to address the Senate as in morning business for 7 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, my thanks to the Senators from Virginia and Michigan for accommodating me. I thank the Parliamentarian. I have been in a similar position in another legislative body. It is a tough assignment. I thank them for their courtesy and diligence and the ruling they have offered to us.

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

Mr. DURBIN. Mr. President, I am prepared to yield the floor, but I would like to give the Senator from Virginia or any other Senator on the floor an opportunity to claim the time. Otherwise, I will raise the question of the presence of a quorum.

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.

Mr. REID. Mr. President, I have conferred with the two managers—I was going to say more than I wanted to, but I will not say that, but I conferred with the two managers often tonight, and it appears the Senate will be best served by clearing a number of amendments that the two managers have worked on for several days now. They have approximately a dozen amendments. They would do that tonight.

I put this in the form of a unanimous consent request: that tomorrow morning, when the Senate convenes, after the prayer and the pledge, we would move to the Boxer amendment, which is a post-Iraq war contracting matter, and that there would be 45 minutes of debate on that amendment—30 minutes under the control of Senator BOXER, 15 minutes under the control of Senator WARNER—and in keeping with the usual unanimous consent request for second-degree amendments that we have done throughout the day; and that following that, we could move to perhaps the Daschle amendment, perhaps the Dodd amendment.

We are really getting few amendments over here. We all recognize we have to dispose of the relevant amendment that Senator MURRAY filed this afternoon. And Senator BROWNBACK, Senator WARNER, and others will work on that tonight to see what is contemplated regarding that tomorrow.

So the only unanimous consent request I make tonight is that in the morning we go to the Boxer amendment in keeping with the request I just made.

Mr. WARNER. Mr. President, reserving the right to object, could I have just another 3 minutes to determine if there is a problem on our side with that? And I regret that I could not tell you before you started.

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

Mr. WARNER. Fine. Thank you.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. 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. WARNER. Mr. President, I know colleagues and others are following the proceedings on the floor tonight. We have been able to achieve quite a good deal. As the distinguished Democratic leader mentioned, we will proceed now to 12 amendments which have been cleared on both sides.

AMENDMENT NO. 792

Mr. WARNER. Mr. President, on behalf of myself, I offer an amendment which realigns funds during the committee markup for the Joint Engineering Data Management Information and Control System from the Navy procurement to the Navy research development, test and evaluation accounts. I believe this amendment is cleared on the other side.

Mr. LEVIN. Mr. President, it is indeed cleared.

Mr. WARNER. I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 792.

The amendment is as follows:

(Purpose: To correct the authorization of appropriations for the Joint Engineering Data Management Information and Control System (JEDMICS) so as to be provided for in Navy RDT&E (PE 0603739N) instead of Navy procurement)

On page 25, between lines 11 and 12, insert the following:

SEC. 213. AMOUNT FOR JOINT ENGINEERING DATA MANAGEMENT INFORMATION AND CONTROL SYSTEM.

(a) NAVY RDT&E.—The amount authorized to be appropriated under section 201(2) is hereby increased by $2,500,000. Such amount may be available for the Joint Engineering Data Management Information and Control System (JEDMICS).

(b) NAVY PROCUREMENT.—The amount authorized to be appropriated under section 102(a)(4) is hereby reduced by $2,500,000, to be derived from the amount provided for the Joint Engineering Data Management Information and Control System (JEDMICS).

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 792) was agreed to.

Mr. WARNER. Mr. 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.

Mr. LEVIN. Mr. President, I ask unanimous consent that the pending amendment be set aside for the duration of this and all other amendments which Senator WARNER and I are offering this evening.

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

AMENDMENT NO. 793

Mr. LEVIN. Mr. President, on behalf of Senators WYDEN, COLLINS, CLINTON, BYRD, and LAUTENBERG, I offer an amendment which requires a report on contracting for the reconstruction of Iraq.

Mr. WARNER. Mr. President, this amendment has been cleared.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. WYDEN, Ms. COLLINS, Mrs. CLINTON, Mr. BYRD, and Mr. LAUTENBERG, proposes an amendment numbered 793.

The amendment is as follows:

(Purpose: To provide for the reporting requirement regarding Iraq to include a requirement to report noncompetitive contracting for the reconstruction of the infrastructure of Iraq)

On page 273, between lines 20 and 21, insert the following:

(d) REPORTING REQUIREMENT RELATING TO NONCOMPETITIVE CONTRACTING FOR THE RECONSTRUCTION OF INFRASTRUCTURE OF IRAQ.—(1) If a contract for the maintenance, rehabilitation, construction, or repair of infrastructure in Iraq is entered into under the oversight and direction of the Secretary of Defense or the Office of Reconstruction and Humanitarian Assistance in the Office of the Secretary of Defense without full and open competition, the Secretary shall publish in the Federal Register or Commerce Business Daily and otherwise make available to the public, not later than 30 days after the date on which the contract is entered into, the following information:

(i) The amount of the contract.

(ii) A brief description of the scope of the contract.

(iii) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(iv) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(B) Subparagraph (A) does not apply to a contract entered into more than one year after date of enactment.

(2)(A) The head of an executive agency may—

(i) withhold from publication and disclosure under paragraph (1) any document that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; and

(ii) redact any part so classified that is in a document not so classified before publication and disclosure of the document under paragraph (1).

(B) In any case in which the head of an executive agency withholds information under subparagraph (A), the head of such executive agency shall make available an unredacted version of the document containing that information to the chairman and ranking member of each of the following committees of Congress:

(i) The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(ii) The Committees on Appropriations of the Senate and the House of Representatives.

(iii) Each committee that the head of the executive agency determines has legislative jurisdiction for the operations of such department or agency to which the information relates.

(3) This subsection shall apply to contracts entered into on or after October 1, 2002, except that, in the case of a contract entered into before the date of the enactment of this Act, paragraph (1) shall be applied as if the contract had been entered into on the date of the enactment of this Act.

(4) Nothing in this subsection shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(5) In this subsection, the terms ''executive agency'' and ''full and open competition'' have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

Ms. COLLINS. Mr. President, my colleague from Oregon, Senator WYDEN, and I have offered this amendment that will pull back the curtain on government contracts to rebuild post-war Iraq, one of the most ambitious reconstruction projects since World War II.

The government already has awarded numerous contracts towards this purpose. These contracts provide for an enormous scope of goods and services ranging from capital construction to the administration of key air and sea port facilities to the rebuilding of Iraq's education and health systems. One contract even provides for such fundamentals as teaching local leaders about the basics of the democratic process.

In all, billions of Federal taxpayer dollars are being spent. It is Congress's job to ensure that they are spent wisely and fairly.

Our amendment would ensure that the basic facts regarding these and other contracts for the rebuilding of Iraq are publicly available. For those contracts that have been awarded outside of the usual process of full and open competition, our amendment would require that, within 30 days of entering the contract, the contract's price, the scope of the work to be performed, the contractors asked to bid, and the criteria by which they were chosen must be made known, through publication in the Federal Register.

In addition, the agency head also would need to make publicly available the justification for awarding the contract on a basis less than the full and open competition standard.

These provisions have become necessary because of the way in which Federal agencies contracting for goods and services in Iraq have been awarding these contracts.

Not a single Iraq reconstruction contract has been awarded on the basis of ''full and open competition'' embodied in the 1984 Competition in Contracting Act, whereby interested parties are notified and given a chance to bid. The rationale for this standard was not only to provide basic fairness for all potential bidders, but also to reassure the public that their tax dollars were being spent wisely and in the public interest.

Instead, these contracts have either been awarded on the basis of limited competition, where the bidders are handpicked, or, in some cases, without any competition at all.

The agencies involved generally have singled out a small number of bidders based on the agency's preconceived notions about the bidders' ability to perform the contract. Such a process, we are told, was necessitated by the short time frame in which the contracts had to be planned and awarded.

Such a process, however, necessarily raises questions regarding fundamental fairness and impartiality and whether tax money is being spent in a responsible manner. Because we don't have all of the facts regarding these contracts, speculation has arisen over their content, their price tags, and the basis of their awards.

For example, I was distressed to learn that a sole source contract entered into by the United States Army Corps of Engineers called for much more work to be performed than was initially indicated. This is because the Corps only released the information that it deemed relevant. Under our amendment, the public will be able to judge for itself whether the government was justified in awarding a contract bundle on less than full competition. The public deserves no less.

At the same time, we have included in our amendment provisions to ensure that classified material remains safe and is provided only to congressional committees with oversight authority.

It is my hope that the publication of the key information in these contracts will serve some of the same goals as the Competition in Contracting Act, such as reassuring the public that reconstruction in Iraq is being done in a fair manner and in furtherance of the public interest.

Alternatively, keeping these justifications secret defeats the legal safeguards that protect full and open competition. Further, it breeds what may be unjustified fear that the contracting process is being run for the benefit of a select few rather than the Iraqi people.

Ensuring that this information is available to the public will help maintain confidence that our work in rebuilding Iraq is being undertaken in a manner best calculated to advance the well-being of the Iraqi people, and will help dispel criticisms that the process by which these contracts are being awarded is unfair or unjustified.

I want to thank the distinguished chair and ranking member of the ASC

for working with Senator WYDEN and me on this amendment, which I understand will be made part of the manager's package.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 793) was agreed to.

Mr. WARNER. Mr. 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.

AMENDMENT NO. 794

Mr. WARNER. Mr. President, on behalf of Senator MCCAIN, I offer an amendment which makes the necessary technical changes to the National Call to Service Act which was enacted last year. This amendment, which was requested by the Department of Defense, will enable DOD to make payments for education benefits to volunteers under this program from the DOD education benefits program. This amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCAIN, proposes an amendment numbered 794.

The amendment is as follows:

(Purpose: To provide for the funding of education assistance enlistment incentives to facilitate National service through Department of Defense Education Benefits Fund)

On page 109, between lines 9 and 10, insert the following:

SEC. 535. FUNDING OF EDUCATION ASSISTANCE ENLISTMENT INCENTIVES TO FACILITATE NATIONAL SERVICE THROUGH DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.

(a) IN GENERAL.—Subsection (j) of section 510 of title 10, United States Code, is amended to read as follows:

''(j) FUNDING.—(1) Amounts for the payment of incentives under paragraphs (1) and (2) of subsection (e) shall be derived from amounts available to the Secretary of the military department concerned for the payment of pay, allowances and other expenses of the members of the armed force concerned.

''(2) Amounts for the payment of incentives under paragraphs (3) and (4) of subsection (e) shall be derived from the Department of Defense Education Benefits Fund under section 2006 of this title.''.

(b) CONFORMING AMENDMENTS.—Section 2006(b) of such title is amended—

(1) in paragraph (1), by inserting ''paragraphs (3) and (4) of section 510(e) and'' after ''Department of Defense benefits under''; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

''(E) The present value of future benefits payable from the Fund for educational assistance under paragraphs (3) and (4) of section 510(e) of this title to persons who during such period become entitled to such assistance.''.

Mr. WARNER. I urge adoption of the amendment.

Mr. LEVIN. Would the Presiding Officer hold for one moment.

The amendment is agreed to on this side.

The PRESIDING OFFICER. Is there further debate on the amendment.

If not, without objection, the amendment is agreed to.

The amendment (No. 794) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 795

Mr. WARNER. Mr. President, on behalf of Senator ROBERTS, I offer an amendment to enhance defense contracting opportunities for persons with disabilities. I believe this amendment has been cleared on both sides.

Mr. LEVIN. The amendment has been cleared. I urge the Senate to adopt it.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. ROBERTS, proposes an amendment numbered 795.

The amendment is as follows:

(Purpose: To enhance the defense contracting opportunities for persons with disabilities)

On page 81, strike lines 12 and 13, and insert the following:

SEC. 368. CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

On page 82, between lines 19 and 20, insert the following:

(e) DEMONSTRATION PROJECTS FOR CONTRACTORS EMPLOYING PERSONS WITH DISABILITIES.—(1) The Secretary of Defense may carry out two demonstration projects for the purpose of providing opportunities for participation by severely disabled individuals in the industries of manufacturing and information technology.

(2) Under each demonstration project, the Secretary may enter into one or more contracts with an eligible contractor for each of fiscal years 2004 and 2005 for the acquisition of—

(A) aerospace end items or components; or

(B) information technology products or services.

(3) The items, components, products, or services authorized to be procured under paragraph (2) include—

(A) computer numerically-controlled machining and metal fabrication;

(B) computer application development, testing, and support in document management, microfilming, and imaging; and

(C) any other items, components, products, or services described in paragraph (2) that are not described in subparagraph (A) or (B).

(4) In this subsection:

(A) The term ''eligible contractor'' means a business entity operated on a for-profit or nonprofit basis that—

(i) employs not more than 500 individuals;

(ii) employs severely disabled individuals at a rate that averages not less than 33 percent of its total workforce over a period prescribed by the Secretary;

(iii) employs each severely disabled individual in its workforce generally on the basis of 40 hours per week;

(iv) pays not less than the minimum wage prescribed pursuant to section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) to the employees who are severely disabled individuals;

(v) provides for its employees health insurance and a retirement plan comparable to those provided for employees by business entities of similar size in its industrial sector or geographic region; and

(vi) has or can acquire a security clearance as necessary.

(B) The term ''severely disabled individual'' means an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has a severe physical or mental impairment that seriously limits one or more functional capacities.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 795) was agreed to.

Mr. WARNER. Mr. 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.

AMENDMENT NO. 759

Mr. LEVIN. Mr. President, on behalf of Senator BILL NELSON, I offer an amendment that expresses the sense of the Senate that the Secretary of Defense should authorize and publicize a reward of $1 million for information leading to a conclusive resolution of the cases of missing members of the Armed Forces.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. NELSON of Florida, proposes an amendment numbered 759.

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

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

The amendment is as follows:

(Purpose: Expressing the sense of the Senate that the Secretary of Defense should disburse funds to reward the provision of information leading to the resolution of the status of the members of the Armed Forces of the United States who remain missing in action)

At the end of subtitle D of title X, add the following:

SEC. 1039. SENSE OF SENATE ON REWARD FOR INFORMATION LEADING TO RESOLUTION OF STATUS OF MEMBERS OF THE ARMED FORCES WHO REMAIN MISSING IN ACTION.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense estimates that there are more than 10,000 members of the Armed Forces and others who as a result of activities during the Korean War or the Vietnam War were placed in a missing status or a prisoner of war status, or who were determined to have been killed in action although the body was not recovered, and who remain unaccounted for.

(2) One member of the Armed Forces, Navy Captain Michael Scott Speicher, remains missing in action from the first Persian Gulf War, and there have been credible reports of him being seen alive in Iraq in the years since his plane was shot down on January 16, 1991.

(3) The United States should always pursue every lead and leave no stone unturned to completely account for the fate of its missing members of the Armed Forces.

(4) The Secretary of Defense has the authority to disburse funds as a reward to individuals who provide information leading to the conclusive resolution of cases of missing members of the Armed Forces.

(b) SENSE OF SENATE.—It is the sense of the Senate—

(1) that the Secretary of Defense should use the authority available to the Secretary to disburse funds rewarding individuals who provide information leading to the conclusive resolution of the status of any missing member of the Armed Forces; and

(2) to encourage the Secretary to authorize and publicize a reward of $1,000,000 for information resolving the fate of those members of the Armed Forces, such as Michael Scott Speicher, who the Secretary has reason to believe may yet be alive in captivity.

Mr. WARNER. Mr. President, I want to consult with my colleague about this.

Senator LEVIN and I have read the text of the amendment. The text of the amendment is quite clear as to what the intent was of the proponent. We have no objection on this side.

The PRESIDING OFFICER. Is there further debate on the amendment.

If not, without objection, the amendment is agreed to.

The amendment (No. 759) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 740

Mr. WARNER. Mr. President, on behalf of Senator DOMENICI, I offer an amendment to provide military health care entitlement to Reserve officers awaiting orders to active duty. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follow:

The Senator from Virginia, [Mr. WARNER], for Mr. DOMENICI, proposes an amendment numbered 740.

The amendment is as follows:

(Purpose: To provide entitlement to health care for reserve officers of the Armed Forces pending orders to initial active duty following commissioning)

At the appropriate place in title VII, insert the following:

SEC. ___. ELIGIBILITY OF RESERVE OFFICERS FOR HEALTH CARE PENDING ORDERS TO ACTIVE DUTY FOLLOWING COMMISSIONING.

Section 1074(a) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking ''who is on active duty'' and inserting ''described in paragraph (2)''; and

(3) by adding at the end the following new paragraph:

''(2) Members of the uniformed services referred to in paragraph (1) are as follows:

''(A) A member of a uniformed service on active duty.

''(B) A member of a reserve component of a uniformed service who has been commissioned as an officer if—

''(i) the member has requested orders to active duty for the member's initial period of active duty following the commissioning of the member as an officer;

''(ii) the request for orders has been approved;

''(iii) the orders are to be issued but have not been issued; and

''(iv) the member does not have health care insurance and is not covered by any other health benefits plan.''.

The PRESIDING OFFICER. Is there any further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 740) was agreed to.

Mr. WARNER. Mr. 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.

AMENDMENT NO. 796

Mr. LEVIN. Mr. President, on behalf of Senators FEINSTEIN and STEVENS, I offer an amendment to prohibit funding from being used in fiscal 2004 for research, development, test and evaluation, procurement, or deployment of nuclear-tipped ballistic missile defense intercepts.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mrs. FEINSTEIN and Mr. STEVENS, proposes an amendment numbered 796.

The amendment is as follows:

(Purpose: To prohibit the use of funds for research, development, test, and evaluation, procurement, or deployment of nuclear armed interceptors in a missile defense system)

At the end of subtitle C of title II, add the following:

SEC. 225. PROHIBITION ON USE OF FUNDS FOR NUCLEAR ARMED INTERCEPTORS IN MISSILE DEFENSE SYSTEMS.

No funds authorized to be appropriated for the Department of Defense by this Act may be obligated or expended for research, development, test, and evaluation, procurement, or deployment of nuclear armed interceptors in a missile defense system.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 796) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 700

Mr. WARNER. Mr. President, on behalf of Senator LOTT, I offer an amendment which would express the sense of the Senate that the Senate strongly supports the Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program, and that the Secretary of Defense and the Secretary of the Navy should continue to fund this program at a sustaining level.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 700.

The amendment is as follows:

(Purpose: To express the sense of the Senate in support of the Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program)

On page 291, between lines 14 and 15, insert the following:

SEC. 1039. ADVANCED SHIPBUILDING ENTERPRISE.

(a) FINDINGS.—Congress makes the following findings:

(1) The President's budget for fiscal year 2004, as submitted to Congress, includes $10,300,000 for the Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program.

(2) The Advanced Shipbuilding Enterprise is an innovative program to encourage greater efficiency among shipyards in the defense industrial base.

(3) The leaders of the Nation's shipbuilding industry have embraced the Advanced Shipbuilding Enterprise as a method of exploring and collaborating on innovation in shipbuilding and ship repair that collectively benefits all manufacturers in the industry.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate strongly supports the innovative Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program that has yielded new processes and techniques to reduce the cost of building and repairing ships in the United States;

(2) the Senate is concerned that the future-years defense program submitted to Congress for fiscal year 2004 does not reflect any funding for the Advanced Shipbuilding Enterprise after fiscal year 2004; and

(3) the Secretary of Defense and the Secretary of the Navy should continue funding the Advanced Shipbuilding Enterprise at a sustaining level through the future-years defense program to support subsequent rounds of research that reduce the cost of designing, building, and repairing ships.

SHIPBUILDING

Mr. LOTT. Mr. President, I first want to acknowledge the hard work done by the Armed Services Committee and Senator WARNER and his staff on the fiscal year 2004 defense authorization bill. Having served on this committee for many years, I know how intense the discussions are in the committee and how difficult the decisions are when crafting a bill this complex and so critical. I do, however, want to engage the chairman on a subject of great national interest: Navy ship construction.

Over the years, this country has seen a steady decline in not only our naval ship force structure, but in the capacity to construct these great warships. Instead of building the requisite 12 ships a year to maintain our current and modest naval capability, we are merely producing 6 to 7 per year. The erosion in our naval capability should not continue. I know this is a subject of acute interest by Chairman WARNER, a former Secretary of the Navy, and would like to hear his thoughts on the issue!

Mr. WARNER. The level of shipbuilding is clearly of concern to me. The Navy is in transition, and we find ourselves building the last of the older 20th century surface combatants, submarines, aircraft carriers, and amphibious assault ships and transitioning to those ships of the line for the 21st century. Understandably, there is a development period we are involved in as

well as recapitalization. The committee chose to support the Navy's proposals for DDX, LCS, LHA(R), LPD and CVN–21. These are the naval vessels of the future.

Mr. BREAUX. As the Senator knows well, this transition period has a substantial impact on the shipyards and their workers who will be asked to construct these future vessels. After the decline in shipbuilding in the last quarter century, our ability to build naval ships of all kinds has been substantially reduced. During this period of transition, I am concerned, as well as you, that the shipyards retain their engineers and workers, so they may build the next generation of ships when these ships are mature.

Mr. WARNER. They key here is balance during the transition period. The ongoing global war on terrorism places enormous budgetary pressure on the Defense bills. For example, we were certainly aware that the LPD–17 design is in production, but at a very low rate. The committee supported funding for the fiscal year 2004 ship. I also understand that the Navy is attempting to accelerate production to allow procurement of a ship in fiscal year 2005.

Ms. LANDRIEU. The LPD–17 is certainly an excellent example of the dilemma posed in our Navy's shipbuilding program. I am hopeful that as we move through the authorization process, some accommodation will be found to move that shipbuilding program along. Certainly, this ship class, if produced at greater levels can clear the decks, so to speak, for the other, advanced ships, which are in development now.

Mr. WARNER. I acknowledge the Senator's comments and concerns.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 700) was agreed to.

Mr. WARNER. 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.

AMENDMENT NO. 779

Mr. WARNER. On behalf of Senator ALLARD, I offer an amendment on the protection of the operational files of the National Security Agency that would strike section 1035 of S. 1050 and replace it with this amendment. It is cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. ALLARD, proposes an amendment numbered 779.

The amendment is as follows:

(Purpose: To provide a substitute for section 1035, relating to the protection of the operational files of the National Security Agency)

Strike section 1035 and insert the following:

SEC. 1035. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

(a) CONSOLIDATION OF CURRENT PROVISIONS ON PROTECTION OF OPERATIONAL FILES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by transferring sections 105C and 105D to the end of title VII and redesignating such sections, as so transferred, as sections 703 and 704, respectively.

(b) PROTECTION OF OPERATIONAL FILES OF NSA.—Title VII of such Act, as amended by subsection (a), is further amended by adding at the end the following new section:

''OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY

''SEC. 705. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) Operational files of the National Security Agency (hereafter in this section referred to as 'NSA') may be exempted by the Director of NSA, in coordination with the Director of Central Intelligence, from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

''(2)(A) In this section, the term 'operational files' means—

''(i) files of the Signals Intelligence Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through technical systems; and

''(ii) files of the Research Associate Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

''(B) Files which are the sole repository of disseminated intelligence, and files that have been accessioned into NSA Archives, or its successor organizations, are not operational files.

''(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

''(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

''(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

''(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

''(i) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

''(ii) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

''(iii) The Intelligence Oversight Board.

''(iv) The Department of Justice.

''(v) The Office of General Counsel of NSA.

''(vi) The Office of the Inspector General of the Department of Defense.

''(vii) The Office of the Director of NSA.

''(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

''(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

''(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

''(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1), and which have been returned to exempted operational files for sole retention shall be subject to search and review.

''(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004, and which specifically cites and repeals or modifies such provisions.

''(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NSA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

''(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

''(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NSA, such information shall be examined ex parte, in camera by the court.

''(ii) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

''(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

''(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NSA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

''(II) The court may not order NSA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NSA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

''(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

''(vi) If the court finds under this paragraph that NSA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NSA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

''(vii) If at any time following the filing of a complaint pursuant to this paragraph NSA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

''(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence before submission to the court.

''(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in

force under subsection (a)(1) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

''(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

''(3) A complainant that alleges that NSA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

''(A) Whether NSA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 or before the expiration of the 10-year period beginning on the date of the most recent review.

''(B) Whether NSA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.''.

(c) CONFORMING AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking ''For purposes of this title'' and inserting ''In this section and section 702,''.

(2) Section 702(c) of such Act (50 U.S.C. 432(c)) is amended by striking ''enactment of this title'' and inserting ''October 15, 1984,''.

(3)(A) The title heading for title VII of such Act is amended to read as follows:

''TITLE VII—PROTECTION OF OPERATIONAL FILES''.

(B) The section heading for section 701 of such Act is amended to read as follows:

''PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY''.

(C) The section heading for section 702 of such Act is amended to read as follows:

''DECENNIAL REVIEW OF EXEMPTED CENTRAL INTELLIGENCE AGENCY OPERATIONAL FILES.''.

(d) CLERICAL AMENDMENTS.—The table of contents for the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 105C and 105D; and

(2) by striking the items relating to title VII and inserting the following new items:

''TITLE VII—PROTECTION OF OPERATIONAL FILES

''Sec. 701. Protection of operational files of the Central Intelligence Agency.

''Sec. 702. Decennial review of exempted Central Intelligence Agency operational files.

''Sec. 703. Protection of operational files of the National Imagery and Mapping Agency.

''Sec. 704. Protection of operational files of the National Reconnaissance Office.

''Sec. 705. Protection of operational files of the National Security Agency.''.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 779) was agreed to.

Mr. WARNER. 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.

AMENDMENT NO. 746, AS MODIFIED

Mr. LEVIN. Mr. President, on behalf of Senator DODD, I offer an amendment which requires the Army to study the use of a second source of production for gears incorporated into CH–47 helicopter transmissions.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. DODD, proposes an amendment numbered 746, as modified.

The amendment is as follows:

(Purpose: To require an Army study regarding use of a second source of production for gears incorporated into helicopter transmissions for CH–47 helicopters)

On page 17, strike line 11 and insert the following:

SEC. 111. CH–47 HELICOPTER PROGRAM.

(a) REQUIREMENT FOR STUDY.—The Secretary of the Army shall study the feasibility and the costs and benefits of providing for the participation of a second source in the production of gears for the helicopter transmissions incorporated into CH–47 helicopters being procured by the Army with funds authorized to be appropriated by this Act.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to Congress.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 746), as modified, was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 784

Mr. WARNER. On behalf of Senator CHAMBLISS, I offer an amendment to require the National Imagery and Mapping Agency to provide a report on certain imagery exploitation capabilities. It is cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. CHAMBLISS, proposes an amendment numbered 784.

The amendment is as follows:

(Purpose: To require a report on the efforts of the National Geospatial-Intelligence Agency to utilize certain data extraction and exploitation capabilities within the Commercial Joint Mapping Tool Kit (C/JMTK))

On page 226, between the matter following line 14 and line 15, insert the following:

(c) REPORT ON UTILIZATION OF CERTAIN DATA EXTRACTION AND EXPLOITATION CAPABILITIES.—(1) Not later than 60 days after the date of the enactment of this Act, the Director of the National Geospatial-Intelligence Agency shall submit to the appropriate committees of Congress a report on the status of the efforts of the Agency to incorporate within the Commercial Joint Mapping Tool Kit (C/JMTK) applications for the rapid extraction and exploitation of three-dimensional geospatial data from reconnaissance imagery.

(2) In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Subcommittee on Defense of the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

The PRESIDING OFFICER. Is there further debate on the amendment.

If not, without objection, the amendment is agreed to.

The amendment (No. 784) was agreed to.

Mr. WARNER. 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.

AMENDMENT NO. 797

Mr. LEVIN. Mr. President, I offer an amendment on behalf of Senator LIEBERMAN that would provide for a Department of Defense strategy for the management of the electromagnetic spectrum. I believe it is cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. LIEBERMAN, proposes an amendment numbered 797.

The amendment is as follows:

(Purpose: To provide for a strategy for the Department of Defense for the management of the electromagnetic spectrum)

At the end of subtitle D of title II, add the following:

SEC. 235. DEPARTMENT OF DEFENSE STRATEGY FOR MANAGEMENT OF ELECTROMAGNETIC SPECTRUM.

(a) IN GENERAL.—The Secretary of Defense shall—

(1) in accordance with subsection (b), develop a strategy for the Department of Defense for the management of the electromagnetic spectrum to improve spectrum access and high-bandwidth connectivity to military assets.

(2) in accordance with subsection (c), communicate with civilian departments and agencies of the Federal Government in the development of the strategy identified in (a)(1).

(b) STRATEGY FOR DEPARTMENT OF DEFENSE STRATEGY FOR SPECTRUM MANAGEMENT.—(1) Not later than September 1, 2004, the Board shall develop a strategy for the Department of Defense for the management of the electromagnetic spectrum in order to ensure the development and use of spectrum-efficient technologies to facilitate the availability of adequate spectrum for both network-centric warfare. The strategy shall include specific timelines, metrics, plans for implementation including the implementation of technologies for the efficient use of spectrum, and proposals for program funding.

(2) In developing the strategy, the Board shall consider and take into account in the strategy the research and development program carried out under section 234.

(3) The Board shall assist in updating the strategy developed under paragraph (1) on a

biennial basis to address changes in circumstances.

(4) The Board shall communicate with other departments and agencies of the Federal Government in the development of the strategy described in subsection (a)(1), including representatives of the military departments, the Federal Communications Commission, the National Telecommunications and Information Administration, the Department of Homeland Security, the Federal Aviation Administration, and other appropriate departments and agencies of the Federal Government.

(c) BOARD DEFINED.—In this section, the term ''Board'' means the Board of Senior Acquisition Officials as defined in section 822.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 797) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 739

Mr. WARNER. Mr. President, on behalf of Senator DOMENICI, I offer an amendment to authorize reimbursement for travel expenses of covered beneficiaries of CHAMPUS for specialty care in order to cover specialized dental care.

The amendment is cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DOMENICI, proposes an amendment numbered 739.

The amendment is as follows:

(Purpose: To expand reimbursement for travel expenses of covered beneficiaries of CHAMPUS for specialty care in order to cover specialized dental care)

At the appropriate place in title VII, insert the following:

SEC. ___. REIMBURSEMENT OF COVERED BENEFICIARIES FOR CERTAIN TRAVEL EXPENSES RELATING TO SPECIALIZED DENTAL CARE.

Section 1074i of title 10, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''In any case''; and

(2) by adding at the end the following new subsection:

''(b) SPECIALTY CARE PROVIDERS.—For purposes of subsection (a), the term 'specialty care provider' includes a dental specialist (including an oral surgeon, orthodontist, prosthodontist, periodontist, endodontist, or pediatric dentist).''.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 739) was agreed to.

Mr. WARNER. 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.

AMENDMENT NO. 798

Mr. WARNER. Mr. President, I offer an amendment that would strike subsection (c) of section 2101 to authorize military construction projects for the Army. It is cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 798.

The amendment is as follows:

(Purpose: To strike subsection (c) of section 2101 relating to unspecified worldwide military construction projects for the Army)

On page 322, strike line 8 and all that follows through page 324, line 10.

On page 326, strike lines 1 through 3.

On page 328, line 21, strike ''(1), (2), and (3)'' and insert ''(1) and (2)''.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 798) was agreed to.

Mr. WARNER. 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.

Mr. WARNER. Mr. President, that concludes the total of cleared amendments that we can work on tonight. Our staffs will continue to work through the evening. Hopefully, another dozen or so will be ready first thing in the morning. I thank my distinguished colleague for his usual cooperation and advice.

Mr. LEVIN. I thank my good friend from Virginia. We are both in the debt of the Presiding Officer, who has been patient through some long delays. They have been essential.

Mr. WARNER. Our Parliamentarians have been put to the test and they deserve a measure of recognition for a job well done. I thank the Chair and the staff. If you think this has been a late night, wait until tomorrow.

Mr. LEVIN. Something to look forward to.

Mr. WARNER. I believe we are making good progress on this bill. It is my hope and, indeed, my expectation that we can complete this bill by midday tomorrow. I know that my colleague from Michigan and I, together with our respective leadership, are endeavoring to achieve that. When I made reference to tomorrow night, it related to other matters of legislation, not this bill.

Mr. LEVIN. A great sigh of relief.

Mr. WARNER. 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. BROWNBACK. 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. KENNEDY. Mr. President, I want to say a few words about an amendment that I had hoped to offer to help our troops and that has strong bipartisan support. But the Parliamentarian says it doesn't quite meet the relevance test under the consent agreement, so I will offer it on another day.

The amendment is intended to recognize the enormous contributions to our country by immigrants serving in the military. It gives immigrant men and women in our Armed Forces more rapid naturalization, and it establishes protections for their families if they are killed in action.

In all our wars, immigrants have fought side by side and given their lives to defend America's freedom and ideals. One out of every five recipients of the Congressional Medal of Honor, the highest honor our Nation bestows on our war heroes, has been an immigrant. Their bravery is unequivocal proof that immigrants are as dedicated as any other Americans to defending our country.

Today, 37,000 men and women in the Army, Navy, Marines, Air Force, and Coast Guard are not yet citizens, but have the status of permanent residents. Another 12,000 permanent residents are in the Reserves and the National Guard. Sadly, 10 immigrant soldiers were killed in Iraq; 2 are missing; and 2 were POWs. The President did the right thing by granting posthumous citizenship to those who died, but it is clear that we can do more to ease the path to citizenship for all immigrants who serve in our forces.

My amendment improves access to naturalization for permanent residents in the military and it protects spouses, children, and parents of soldiers killed in action by preserving their ability to file for permanent residence in the United States.

Specifically, the amendment reduces from 3 to 2 the number of years required for these immigrants to become naturalized citizens. It exempts them from paying naturalization filing fees, and it enables them to be naturalized while stationed abroad. Affordable and timely naturalization is the least we can do for those who put their lives on the line to defend our nation.

During times of war, recruiting needs are immediate and readiness is essential. Even though the war in Iraq has ended, our commitment to ending global terrorism will continue, and more of these brave men and women will be called to active duty. Many of them are members of the Selected Reserve—Reserve and National Guard members who may be called up for active duty during a war or other national emergency. Many have already been activated, and many more could be called up at a moment's notice to defend our country and assist in military operations.

Over the years, Reserve and Guard units have often become full partners with their active-duty counterparts. Their active-duty colleagues cannot go to war without them. Being a member of the Selected Reserves is nothing less than a continuing commitment to meet very demanding standards, and they deserve recognition for their bravery and sacrifice. The amendment allows permanent resident members of

the Selected Reserves to expedite their naturalization applications during war or military hostilities.

Finally, the amendment provides immigration protection to immediate family members of soldiers killed in action. Grieving mothers, fathers, spouses, and children would be given the opportunity to legalize their immigration status and avoid deportation in the event of death of their loved one serving in our military. We know the tragic losses endured by these families, and it is unfair that they lose their immigration status as well.

The provisions of the amendment are identical to those in S. 922, the Naturalization and Family Protection for Military Members Act, which has strong bipartisan support and is also endorsed by numerous veterans organizations including: the Veterans of Foreign Wars, the Air Force Sergeants Association, the Non-Commissioned Officers Association, and the Blue Star Mothers of America.

The amendment is a tribute to the sacrifices that these future Americans are already making now for their adopted country. They deserve this important recognition and I look forward to working with my colleagues to see that these provisions are enacted into law.

Mr. VOINOVICH. Mr. President, I rise today to express my disappointment that the Senate is not able to act on my amendment to the Defense Authorization bill: the NASA Workforce Flexibility Act. NASA and DoD have a long history of collaboration on numerous programs that are central to the success of each agency and the expertise NASA provides DoD is critical to our national security.

For over a year, NASA has been discussing with us the impending crisis within their workforce. In March, my Subcommittee on Oversight of Government Management and the Federal Workforce held a hearing on this very issue. Of great concern to me is the fact that 15 percent of NASA's workforce currently is eligible to retire; that number climbs to 25 percent in just five short years. Also disconcerting is the fact that scientists and engineers over age 60 outnumber those under age 30 by nearly three to one.

With so many experienced people eligible to retire in the next few years, who knows how much institutional knowledge and expertise is going to walk out the door? This creates substantial risk to NASA and our national security.

During the war in Iraq, we saw some of the tremendous benefit our advanced technology provides to our troops. Many people may not be aware that NASA and DoD collaboration is central to providing for our national security.

We have many examples in my own State of Ohio. As the former Mayor of Cleveland and Governor of Ohio, I have seen firsthand the collaboration between the NASA Glenn Research Center in Cleveland and Wright-Patterson Air Force Base in Dayton.

In Ohio alone, NASA and DoD work together on projects that include: Joint fuel cell research to be used in space applications, Army use of Glenn Research Center expertise in testing helicopter rotor engines, and Navy use of Glenn Research Center expertise in missile propulsion program.

These joint efforts are not limited to Ohio; this collaboration exists nationwide. At other Centers throughout the Nation DoD depends on NASA facilities, such as its wind tunnels, for development and testing of all military aircraft, including the Joint Strike Fighter; DoD relies on NASA for technical assistance in investigating and correcting DoD flight problems; the National Aerospace Initiative, formed at the direction of the Presidential Commission on the Future of Aerospace, is a joint DoD-NASA project to develop the future of aerospace technology that is critical to national defense.

The American Helicopter Society awarded the 2002 Howard Hughes Award to NASA's Langley Research Center. Established in 1977, the Howard Hughes award is given in recognition of accomplishments in the helicopter industry. NASA partnered with the Army, and working in conjunction with academia and the private sector, developed what it calls ''Tilt Rotor Aeroacoustics Code.'' This is the technology to reduce the noise generated by helicopter rotors.

My amendment addresses NASA's current and future workforce needs. It would direct NASA to work with OPM and its employees to develop an agency-wide workforce plan.

In the highly competitive science and engineering fields, my amendment would authorize NASA to offer enhanced recruitment and relocation bonuses to attract and retain top talent. It also would allow NASA to offer a mid-career individual in the private sector a vacation package competitive with the private sector and comparable to career federal employees. In addition, my amendment would establish a competitive scholarship program for students in return for employment at NASA.

Mr. President, this body took remarkable action last year when it included in the creation of the Department of Homeland Security the first major governmentwide reforms to the civil service in 25 years, since 1978. That was a good first step, but we have much more work to do. I am concerned that human capital remains on GAO's high-risk list for 2003 throughout the federal government.

In such a critical area as national security, it is clear that the Department of Defense needs NASA. And NASA needs workforce reform.

Mr. CORNYN. Mr. President, I rise today to say a few words regarding the Defense Authorization Act.

On Saturday of last week, May 17, people all across our Nation commemorated Armed Forces Day. As President Eisenhower wrote in 1953: ''It is fitting and proper that we devote one day each year to paying special tribute to those whose constancy and courage constitute one of the bulwarks guarding the freedom of this Nation and the peace of the free world.''

I agree with that sentiment but I would also say that it is fitting and proper to pay tribute to the heroism and sacrifice of our brave men and women in the Armed Forces on each and every day.

We must always remember that our own freedom was not won without cost, but bought and paid for by the sacrifices of generations that have gone before. We must take every opportunity to honor these heroes for their courage and their commitment to the dream that is freedom.

I know I speak for the people of my State of Texas, and for all Americans, when I give thanks that the operation in Iraq has recently reached such a swift conclusion, with so few coalition lives lost.

One in 10 active-duty military personnel call Texas their home, and as a member of the Armed Services Committee, I am dedicated to looking after their interests and the interests of all of our military personnel. We must ensure that the United States military has the training, the equipment, and the facilities they require to remain the greatest fighting force the world has ever known, in times of war and peace.

I support this legislation because it is focused on that goal. And I would like to take this opportunity to thank the distinguished Senators from Virginia and Michigan for their hard work and leadership as chairman and ranking member of the Armed Services Committee.

As members of the committee, we have recommended a $17.9 billion increase above the amount appropriated by the Congress last year. This funding will enhance the ability of the Department of Defense to fulfill its homeland defense responsibilities, and sustain the ability of our Armed Forces to conduct military operations with the fewest lives lost.

We also addressed a number of other defense priorities in this bill, including a 3.7 percent across-the-board pay raise for all uniformed service personnel, an increase in the family separation allowance from $100 per month to $250 per month, and an increase in the special pay rate for duty in imminent danger from $150 per month to $225 per month.

The only area where I do want to draw some distinctions between my own position and the position of this bill concerns the F/A–22 aircraft. The committee's decision to decrease funding for the F/A–22 Raptor by $217 million, representing two fighters, simply does not make sense to me.

The F/A–22 is our next generation fighter aircraft, and it will serve to replace the aging fighters currently in

our inventory. President Bush requested funding for 22 Raptors, and I believe we should fulfill that request. Reducing our funding in response to the President's budget request will only raise questions about our commitment to this program, unsettle the confidence of the subcontractors and suppliers, and ultimately make the entire program more expensive.

Overall, the committee has produced a good bill. These pay raises are needed and deserved. The funding provides for much-needed support for our military infrastructure and equipment. And I am proud to support these measures.

I would also like to take this opportunity to thank Chairman WARNER for including language in the legislation which directs the Department of Defense to determine if any additional measures can be taken to assist the naturalization of qualified service members and their families.

This language is consistent with the Military Citizenship Act, a bill that I recently introduced, that will expedite the naturalization process for the nearly 37,000 men and women serving in our Armed Forces who are not U.S. citizens. I believe there is no better way to honor the heroism and sacrifice of those who serve than to offer them the American citizenship they deserve.

As we labor on this bill, we should take care to remember the sacrifices—not just the sacrifices of the brave men and women who fight on the battlefield, but also the sacrifices of the families they leave behind.

I remember watching as the deployment was occurring from Camp Lejeune, where a young mother with her child was saying goodbye to her husband. I will never forget her words. She said: ''I used to think that if he loved us, he would never leave us. But now I know that he is leaving us because he loves us.''

We as a grateful Nation thank the brave men and women who serve in uniform for the cause of freedom. We wish them all godspeed, and we hope and pray for their swift return to the loving arms of their families.

Mr. SUNUNU. Mr. President, I rise today to congratulate the Senator from Virginia, Mr. WARNER, the chairman of the Armed Services Committee, and the Senator from Michigan, Mr. LEVIN, the ranking member of the Armed Services Committee, for the work they have done to bring before the Senate a Defense authorization bill that will serve as a blueprint to ensure the U.S. Armed Forces have the resources they need in the upcoming fiscal year and beyond.

The Department of Defense faces many challenges in carrying out its various missions across the globe. This legislation authorizes critical funds to make sure our troops have the weapons systems and munitions they need to continue to do the outstanding work they do every day for our freedom, allowing for $75.6 billion in procurement funding. The legislation does right by these men and women and their families by providing them with a pay raise of 3.7 percent. Moreover, it mandates a $100 a month pay incentive for military personnel in North Korea, increases the family separation allowance $150 a month, increases hostile fire and imminent duty pay by an additional $175 a month, and doubles the death gratuity retroactive to September 11, 2001.

S. 1050 not only addresses the short-term needs of the military but gives equal consideration to the long-term challenges facing the services. The $63.2 billion authorized in the bill for research and development is critically needed to make sure our troops will continue to have access to the most advanced equipment to keep them safe and one step ahead of those who would do us harm. We have seen on countless occasions over the last several months how investments in research and development lead to a fighting force capable of unprecedented precision and mobility, which saves lives and allows for decisive military victories.

This legislation addresses some important nonfinancial policy issues as well. S. 1050 strikes a balance between environmental protection and the need to provide our troops with important training. It allows for the examination and evaluation of weapons and countermeasure systems to make sure current and future Presidents and military leaders have all options available to them when making decisions pertaining to military action and national security. The bill also provides tens of millions of dollars to aid in homeland defense initiatives such as the Chemical and Biological Installation/Force Protection Program, and the WMD civil support teams.

I recognize this measure is not perfect and there are some funding and policy provisions on which Senators may disagree. For example, I am very concerned by the committee's decision to cut the President's request for the procurement of 22 F/A–22 Raptors. Yet I know these and other issues will continue to be addressed by both the committee and the administration as this bill moves forward and should not be cause to delay passage of this important piece of legislation.

I am pleased to support S. 1050, and I thank the chairman and ranking member for their work.

Mr. VOINOVICH. Mr. President, in this important debate on the Fiscal Year 2004 National Defense Authorization Act, I am deeply disappointed that the Parliamentarian has ruled irrelevant the amendment which Senator COLLINS and I planned to offer. Our amendment would establish the National Security Personnel System for the more than 700,000 civilian employees of the Department of Defense. The impact of the parliamentarian's ruling is that the Senate will be silent on one of the most substantial modifications to civil service law in the last 25 years. This is most unfortunate.

There is absolutely no doubt in my mind that this amendment should be considered by the Senate—if for no other reason than the House of Representatives has already acted on a similar measure. Both the House Government Reform Committee and the House Armed Services Committee approved a version of the National Security Personnel System, and it will be included in the Defense Authorization Act that the House sends to Conference.

I remind my colleagues that a new human resources management system for the Department of Defense will emerge from Conference. It will be one in which the Senate as a whole has had no voice, and the first time this chamber votes on it will be during the final passage of the Defense Authorization Act later this year. This is regrettable.

I have worked on Federal Government personnel issues generally, and Department of Defense personnel issues specifically, since I arrived in the Senate 4 years ago.

In March 2001, the Subcommittee on Oversight of Government Management held a hearing entitled, ''National Security Implications of the Human Capital Crisis.'' This hearing is just one of 13 that have been held by my Subcommittee on the Federal Government's human capital challenges.

Among our panel of distinguished witnesses that day was former Defense Secretary James Schlesinger, a member of the U.S. Commission on National Security in the 21st Century. Secretary Schlesinger discussed a comprehensive evaluation on national security strategy and structure that was undertaken by the Commission. Regarding human capital, the Commission's final report concluded:

> As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in government. The maintenance of American power in the world depends on the quality of U.S. government personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure that the United States can meet future challenges.

Secretary Schlesinger added further:

> . . . it is the Commission's view that fixing the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy.

Just last week, my Subcommittee held a field hearing in Ohio entitled, ''An Overlooked Asset: the Defense Civilian Workforce.'' During this hearing, I heard testimony on the National Security Personnel System from Dr. David Chu, the Under Secretary of Defense for Personnel and Readiness, and the head of the U.S. General Accounting Office, Comptroller General David Walker.

Dr. Chu testified that, ''the rigidities of the title 5 system of personnel management make it difficult for our civilians to support the military.'' He stated that the Defense Department's top three priorities were hiring flexibilities, reform of the compensation system, and bargaining at the national level with the Department's unions.

Mr. Walker stated that ''We strongly support the concept of modernizing Federal human capital policies within DOD and the Federal Government at large,'' and ''the Federal personnel system is clearly broken in critical respects.'' However, he also noted that the ''senior civilian and military leaders have devoted 'far less' attention to civilian personnel challenges than the challenges of maintaining an effective military,'' and that the Department needs to further develop and integrate its departmentwide human capital strategies.

But even before these hearings in which the national security establishment's personnel needs were outlined so clearly, I have been working to improve the management of the Defense civilian workforce. Many of the acute challenges confronting the Defense civilian workforce were brought to my attention several years ago through conversations with senior managers, both military and civilian, at Wright Patterson Air Force Base in Dayton, Ohio.

When the Senate was considering the 2001 National Defense Authorization Act in June 2000, Senator DEWINE and I offered an amendment that would provide the Defense Department the ability to reshape its workforce through the use of early retirement and voluntary separation incentives.

Securing passage of that relatively simple amendment was not easy. I worked closely with the distinguished Chairman of the Armed Services Committee, Senator JOHN WARNER, the distinguished Ranking Member of the Armed Services Committee, Senator CARL LEVIN, and my distinguished colleague on the Armed Services Committee, Senator JAMES INHOFE, to ensure the adoption of that modest reform.

I wish the Senate had built on this earlier reform and the broader reforms that were included in the Homeland Security Act last year.

I would like to outline briefly what should be included in the National Security Personnel System.

First, the system should feature the broad flexibilities that were provided to the Department of Homeland Security. I believe that the labor-management collaboration process that was mandated for that new Department, and which would be replicated for the Defense Department, is proving effective in ensuring employee participation in the establishment of a new human resources system.

The Defense Department should use its flexibility to design and implement a modern pay-banding and pay-for-performance system which emphasizes accountability, as opposed to the current system in which seniority and pay increases are based primarily on the passage of time.

In addition, the new National Security Personnel System must include substantial hiring flexibility, broad workforce reshaping authorities, and must grant the Department of Defense the ability to bargain with its unions at the national level.

The new system also should provide the Secretary of Defense additional flexibility in hiring personnel outside of the United States on short notice, as well as additional benefits for certain Defense personnel serving abroad.

I support retaining the Director of the Office of Personnel Management as a strategic partner with the Secretary of Defense in the establishment of this new personnel system, and I do not believe that the Secretary should have ''sole, unreviewable'' authority over this new system.

The provisions I just described will give the Defense Department the authority to create a modern personnel system to meet the challenges of the 21st century.

Despite the documented need for further significant reform of the civil service, and the Defense Department's concerted and diligent efforts in this area that culminated in the proposed National Security Personnel System, the Senate apparently will take no action. Mr. President, in this regard, the United States Senate has abrogated its responsibility to the civilian employees of the Department of Defense.

Mr. NELSON of Florida. Mr. President, I rise today to speak in favor of the National Defense Authorization Act for Fiscal Year 2004 and what this bill does for our national security.

I am honored to be the ranking member on the Subcommittee on Strategic Forces. I thank Senator ALLARD, the chairman of the subcommittee, for his leadership and generous spirit of cooperation.

This bill accomplishes much that is good for America, and I am proud to have been a part of shaping the direction of our current and future security.

The Strategic Forces Subcommittee has had a good year with a number of hearings on the difficult and complex issues that fall within the subcommittee's jurisdiction. With just a few exceptions, the provisions in the bill on the floor today are balanced and enjoy strong bipartisan support.

In the space program area, an area of great interest to both Senator ALLARD and myself, I note our strong support of the additional funds provided for the GPS–3 satellite.

The Nation cannot afford to delay the important technological advances that GPS–3 will provide.

The Defense Department wanted to delay this program, but this year's budget request was put together long before the war in Iraq.

Given the performance of and the demand for the precision provided by GPS in the war and U.S. reliance on GPS generally, the GPS–3 must be accelerated. Hopefully, this bill will get this vital program back on track.

The approach taken in the bill on missile defense is balanced. My colleagues on this side of the aisle and I appreciate that this bill addresses a number of our concerns and incorporates some of our recommendations to strengthen our missile defense programs.

I fully support the provision in the bill that will provide Congress important information on the funding required to actually procure, not just research, our missile defense systems.

This provision, when enacted, will provide Congress and the American people a window into the costs of our missile defense plans, and will also help ensure that we know up front how much funding is required to deploy future missile defense systems.

I also am pleased that the bill will restore a national missile defense intercept test in fiscal year 2004. The administration has decided to cancel 9 of 20 previously planned intercept tests for this system. One of the cancelled tests was to have occurred in 2004.

This is of concern to me—I believe we need to test systems before we deploy them. Restoration of the test in 2004 will substantially enhance our knowledge of the missile defense system the President has decided to field at the end of 2004. Adding this one test will increase the number of full-up tests of the system between now and the fielding date by 50 percent.

The bill also contains a requirement for the Department to report to Congress on why the national missile defense test plan has changed so radically. This is a positive step.

Unfortunately, the bill does not urge the administration to restore the other eight cancelled tests, or require the administration to notify Congress if it decides to cancel even more tests.

Congress has a modern tradition of using testing—developmental and operational—as a critical element of its constitutional oversight responsibility. We should not abandon this now.

The President plans to field a missile defense system in 2004, yet that system is still years from being fully tested and proven. When deployed in 2004 it is not clear how well the system would work if called upon. Only a disciplined, fully funded, and rigorous test program will determine that.

During the debate on this bill, I hope we can find a way to restore some of the testing unwisely removed from the program.

One of the areas the committee bill does not address is the lack of any yardstick with which to measure the developmental progress of our missile defense programs. Essential management tools, common to any technology program, are not in place for missile defense.

With the exception of the Patriot PAC–3 program, developed mostly under President Clinton, no other missile defense programs have any established standards by which to measure their progress in development. Are we ahead or behind schedule? Are we over, at, or under budget? Is the technology ready, or is there more to learn?

How can Congress effectively meet our constitutional duty in oversight of

this extremely complex and expensive national effort if we do not have an objective, scientifically based yardstick to measure our progress?

Americans know that before you buy a car, you would like to know its fuel economy, power, load capacities, and whether it has a good maintenance record. Buying a major weapon system is not different—no matter how complex. Before the Department of Defense or Congress buys a multibillion-dollar system, we, and the American people, should want to know how well it should and does perform. For a missile defense program, this means how reliably interceptors will launch, how many missiles it should be able to shoot down, how many decoys it can deal with, and so on.

The administration has no such standards for missile defense. At this moment, neither Congress nor the American people know what we are getting for our money in missile defense. Even for the ''limited'' system the administration plans to field in 2004, there is no description of and commitment to the types of missiles it must or will defend against, or how many decoys it can handle. I hope we can find some way to develop some performance standards for our missile defense program.

In the area of signals intelligence, I fully support the funding increases for signals intelligence aircraft. These assets have played a disproportionately large role in the war on terrorism and continue to be heavily utilized. It is essential that we provide the critical funding to sustain and improve these important aircraft.

Unmanned aerial vehicles have played a remarkable role in the wars in Afghanistan and Iraq, as well as in the greater war on terrorism. This is one reason that a number of Senators from both sides of the aisle were disappointed with the Navy's decision not to buy the new Fire Scout unmanned helicopters. The Fire Scout has performed well during its development and holds significant promise for the future. I fully support the additional $40 million provided for Fire Scout that should allow production to start in 2004.

I also note my support on the provision that will focus the attention of the National Nuclear Security Administration's efforts to address the maintenance backlog at its facilities. The Department of Energy, DOE, has been trapped in a death spiral of deferring maintenance for 20 years. We all hope that a provision in this bill brings a new dedication to facilities management that ends the spiral.

Finally, one additional area in the bill that troubles me, and many of our colleagues, is its approach to nuclear weapons.

It appears that the Bush administration is making a significant change in U.S. nuclear weapons policy by blurring the distinction between nuclear and nonnuclear weapons.

This blurring appears to be leading to a new and unsettling notion of usable nuclear weapons, a possible resumption of nuclear weapons testing, and an overall approach that would lend renewed credibility and legitimacy to nuclear weapons at levels well below their traditional strategic deterrence role. This bill supports those goals.

It is important that the United States maintain a strong nuclear deterrent. But it is equally important for the United States to maintain the longstanding policy that nuclear weapons are a weapon of last resort—not just another weapon.

Today the United States sits firmly atop the moral high ground when it comes to the development and proliferation of nuclear weapons. Our leadership and commitment to nonproliferation is undisputed.

Just over the last few years, the United States has successfully assisted the third and fourth largest nuclear weapons states, Ukraine and Kazakhstan, to be signatories of the NPT as nonnuclear weapons states.

The United States is working hard to reduce tensions and nuclear risks between Pakistan and India. At the same time, we are locked in a tough strategic challenge over nuclear weapons in North Korea.

With strong leadership we can continue making progress against the proliferation of weapons of mass destruction, particularly nuclear weapons. But we must continue to lead by example.

But we will fail if our leadership suggests to the world that we have accepted the legitimacy of nuclear weapons as a realistic tactical option.

I acknowledge that we have legitimate scientific interests in the reliability and effectiveness of our nuclear arsenal and new technologies that may improve safety or reduce costs. Members tend to agree on these research interests. But Members, and the American people, tend to divide over committing the Nation to programs that will develop and deploy new weapons for purposes other than nuclear deterrence.

We are entering dangerous territory here and must move forward carefully, mindful of our global leadership, without illusions of those threats that are most likely and most dangerous, and without ideological blinders.

I will join with several of my colleagues later in a series of amendments that will, if adopted, address some of these concerns. The debate that lies ahead will be important to this bill and our national security.

Mr. President, my thanks again to Senator ALLARD for his leadership of our subcommittee this year, and to Senators WARNER and LEVIN for their leadership of the full committee. I look forward to the work we will do together as we move this important bill to final passage.

NOTICE

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR THURSDAY, MAY 22, 2003

Mr. BROWNBACK. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, May 22. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1050, the Department of Defense authorization bill, provided further that the Murray amendment No. 691 be temporarily set aside, and, further, when the Murray amendment recurs, Senator BROWNBACK be recognized; provided further that when the Senate resumes consideration of the bill on Thursday, Senator DASCHLE or his designee be recognized to call up amendment No. 791.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, reserving the right to object, what this unanimous consent agreement says is, in the morning we will come in, do the prayer and the pledge, then we will move to the Daschle amendment. When that is disposed of, Senator BROWNBACK will be recognized to offer a second-degree amendment to the Murray amendment. This is a right the majority would have.

What we are doing here is making sure that Senator FRIST, who may not be available at that time in the morning, will have his rights protected.

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

Mr. BROWNBACK. Mr. President, I thank the Senator from Nevada for working with us. We have had a knotty problem here, but I think we are getting on through it, and I appreciate their cooperation in working with us.

PROGRAM

Mr. BROWNBACK. For the information of all Senators, tomorrow the Senate will resume debate on the Department of Defense authorization bill. Amendments are expected throughout the day, and therefore rollcall votes will occur during Thursday's session. It is the managers' intention to finish this important bill at a reasonable time tomorrow afternoon.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BROWNBACK. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:41 p.m., adjourned until Thursday, May 22, 2003, 9:30 a.m.

EXTENSIONS OF REMARKS

REMARKS AT THE NCWO RALLY IN AUGUSTA, GEORGIA ''EQUALITY AND PROGRESS' BY RAMONA WRIGHT, 3RD VICE CHAIR, NATIONAL CONGRESS OF BLACK WOMEN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mrs. MALONEY. Mr. Speaker, as you know, I have previously introduced legislation to end discrimination against women by private clubs that conduct significant business activities. On April 12, 2003, I attended the event sponsored by the National Council of Women's Organizations at the Masters Golf Tournament to protest the discrimination against women as members by Augusta National Golf Club in Augusta, Georgia. I would like to submit for the record the remarks of Ms. Ramona Wright, Third Vice Chair of the National Congress of Black Women, which she made on that day.

''EQUALITY AND PROGRESS''

Saturday April 12, 2003, Augusta, Georgia

[By Ramona Wright, Third Vice Chair, National Congress of Black Women]

Good afternoon.

My name is Ramona Wright, and I am here on behalf of the National Congress of Black Women. Though our Chairwoman, Dr. C. Delores Tucker, could not be present, she sends warm regards. The NCBW came to this rally to support our sisters of the NCWO and their efforts to open up the membership of the powerful Augusta National Golf Club to women golfers as members.

The NCWO is a strong supporter of the National Congress of Black Women's crusade to have Sojourner Truth added to the Women's Suffrage Statue in the Rotunda of the Capitol. It is for their support and because the NCBW strongly opposes discrimination against women on all levels that we are here today.

We are here today, we, members of the NCBW, NCWO, and allies who support equality, to denounce the sexist membership policy of the Augusta National Golf Club.

It cannot stand!

It is a new day and a new time, which is long over due. Wouldn't you agree?

In 1990, less than 15 years ago, the Augusta National Golf Club finally began admitting African American men. This means that before this time a young exceptional golfer (who happens to be male and a minority and who, in 1997, broke the Tournament's four-day scoring record that had stood for 32 years) won his fourth consecutive professional major in 2001 and, in 2002, became only the third player to win consecutive Masters titles, could not, I repeat, could not have entered in through the gates of the Augusta National Golf Club.

It is shameful in this day and age, The New Millennium, that sexism yet exists—that less than 15 years ago, minority golfers like Tiger Woods may not have been permitted to join the Augusta National Golf Club due to its discriminatory practices.

It is not OK for a sign to read No Girls Allowed, just as it was never OK for signs all across this country to read No Blacks Allowed!

This rally is bigger than women being permitted to join a boy's golf club. This rally is about equality and progress! equality and progress!

In 1735, the city of Augusta was named in the honor of Princess Augusta—a woman.

In the mid 1800s, Augusta had a population of almost 12,500, one of the 102 cities in the U.S. to have more than 10,000 residents. As the second largest city in Georgia during the 19th century, its investment of a million dollars in the manufacturing industry topped that of any other town or state in the U.S.

Moving on to the early 20th century, Augusta had begun developing one of the finest medical centers in the southeast region. And, of course, in the 1930s Augusta became home to the Masters, its world-renowned golf tournament. In the latter part of the past century, Augusta was on its way to transitioning into an urban industrial center.

Therefore, in a town that has progressed so significantly over the last 200 years, why, when we, as a nation and here in Augusta as a community should have learned from our sexist and discriminatory past, do we support a tradition of exclusion?

Today, in the 21st century, the Augusta National Golf Club has an opportunity to break its sexist and exclusionary tradition by permitting women to join. This action would be one of great courage and leadership, an example to the nation and abroad that Augusta's rich tradition of progress includes equality for all.

Stay encouraged and God bless!

HONORING CHIEF WARRANT OFFICER LAURENCE C. ADAMS

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mrs. McCARTHY of New York. Mr. Speaker, I rise in recognition of Chief Warrant Officer Laurence C. Adams, a well-respected leader in the Army National Guard who recently announced his retirement. In his 42 years of service, Laurence was a leading voice in the Army National Guard.

He joined the New York Army National Guard in 1961. After serving nearly 30 years in the National Guard, he spent more than seven years in the U.S. Army Reserve Control Group. The next three years Laurence served as an infantryman in the Regular Army. His last year of service was spent in the Vermont Army National Guard. Throughout his 42 years, Laurence served a variety of roles ranging from acting surgeon to platoon sergeant to fire marshall. His assignments are too many to name.

During his tenure, Laurence served in nine New York State Emergency Operations, which included the World Trade Center terrorist attack. Like his colleagues, he displayed the bravery we take for granted.

Laurence's honors and awards are many. They include the Army Service Ribbon, New York State Conspicuous Service Medal, the State's equivalent of the Legion of Merit, and Armed Forces Reserve Medal (Second award). These awards display how valuable and dedicated Laurence was to his units and country.

While serving his country, Laurence kept a busy private life. He helped Veterans get benefits and records and recruited many members for veterans' organizations. He also was a founding member of the Statue of Liberty Chapter of the United States Army Warrant Officers Association. Laurence was a member of many organizations including the American Legion, National Guard Association of the United States, and the New York State Military Heritage Institute.

I congratulate Laurence on his 42 years of service to our country and applaud his continued devotion to help others. His dedication to our country is a model for all. Thank you on behalf of the people of the Fourth Congressional District and others who benefited from your hard work and dedication.

MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000 AND FOREIGN ASSISTANCE ACT OF 1961 AMENDMENTS

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 14, 2003

Mr. EMANUEL. Mr. Speaker, I rise in strong support of H.R. 192, ''The Microenterprise for Self-Reliance Act of 2000,'' which would help the poorest people, in the most impoverished countries, achieve self-sufficiency and enjoy an improved quality of life through borrowing small loans in amounts as low as $100 million, to start up or expand small businesses.

Microenterprise loans are among the most effective foreign investments our Nation can make. This important legislation promotes opportunity and free enterprise for millions of poor families around the world. A typical recipient of a micro loan is a mother with two or more children who lives in a developing country and uses the money for a small capital investment. Womens' Enews recounts the success story of 33-year-old Maria Elba Contreras Lopez of Huatabampo, Mexico:

''Contreras Lopez invested her first loan of 1,000 pesos (less than $100) into a gas stove to make tortillas. Two years and another loan later, she has enlisted her husband's help and tripled the family's income.''

Stories like Maria's abound. Small infusions of cash around the world transform despair into hope, dejection into optimism and subsistence into prosperity. Families that regularly experienced infant mortality, untreated illnesses and malnutrition through no fault of their own can now glimpse a higher standard of living. As each family benefits, so does each community. The microenterprise program

opens the doors of the global economy to the poorest villages in the most remote locations where entrepreneurial creativity and hard work become bankable assets.

As the story of Contreras Lopez indicates, devoting greater resources to effective humanitarian programs like microenterprise yields hope and empowerment to the world's poorest people and demonstrates that the United States is committed to spreading the rewards that can proliferate in a free-enterprise system. I firmly support expanding the reach of the Microenterprise for Self-Reliance Act of 2000 as a proven method of improving the lives of families and communities across the world, and I am proud to support this important measure.

TRIBUTE TO DAVID M. STONE

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Ms. HARMAN. Mr. Speaker, I rise today to commend the achievements of the Federal Security Director at the Los Angeles International Airport, retired Rear Admiral David M. Stone.

During his tenure with the Transportation Security Administration, Admiral Stone has been instrumental in enhancing the security of the Los Angeles International Airport, the largest origin and destination airport in the world. In addition to working closely with my office, he has worked closely with the aviation and transportation industry, elected officials at every level of government, and, most important, with the talented pool of workers and applicants for employment at LAX.

Through Admiral Stone's efforts, Los Angeles is a safer place. Under his leadership, TSA was able to mobilize, train, and deploy the largest federalized screener force in the United States, two weeks before the national deadline. He also implemented the 100 percent checked baggage screening program at LAX, screening in excess of 150,000 bags per day. He did a superb job of demonstrating TSA's competence, which Secretary of Homeland Security Tom Ridge had the opportunity to see when he visited LAX on April 25, 2003.

I was proud that Admiral Stone served on my Service Academy Selection Committee. As a graduate of the United States Naval Academy, his evaluation of prospective cadets contributed to the selection of the most qualified candidates in the 36th District of California for nomination to our Nation's military academies.

Mr. Speaker, I will miss working with David Stone on enhancing security at LAX. I salute his accomplishments and wish him well.

IN RECOGNITION OF THE 22ND ANNUAL TURKISH-AMERICAN DAY PARADE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to the 22nd annual Turkish-American Day Parade. For over 20 years the parade has united people in its celebration of the many contributions Turkish Americans have made to the history and diversity of New York City, and our great country.

Since its conception, The Federation of Turkish American Associations, which hosts the parade, has successfully established a vital link between the Turkish and American communities. The Federation has evolved with the changing times and has expanded in size, membership and purpose.

The parade is a culmination of the month long Turkish Culture Festival. Americans of all heritages will be treated to lavish floats, men women and children dressed in regional attire, and a sea of American and Turkish flags. Miss World, Azra Akin, will also participate.

New York is a city inspired by every corner of the globe. We draw on and benefit from a myriad of cultures whose citizens have settled here lending their talents, ambition and drive. Turkish influence is evident throughout the city.

It is hard to walk a block in New York City without seeing a Turkish restaurant, a building whose design was influenced by Turkish architecture or a store awning that includes calligraphy, an art form first practiced in Turkey.

The Turkish-American Day Parade is also a chance to honor Turkish Americans who are leaders in their fields, having made contributions in business, the arts, entertainment, and public service not only for the Turkish community, but for all New Yorkers and Americans. Post parade festivities include various Turkish folk dancing troupes, traditional costumes, music, food and artists displaying diverse Turkish culture. In addition, Turkish American Veterans will participate.

In recognition of outstanding Turkish American contributions, I ask my colleagues to join me in honoring the 22nd annual Turkish American Day Parade.

HONORING CHIEF YEOMAN RICHARD MARK ZWEIFACH

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mrs. McCARTHY of New York. I rise in recognition of Senior Chief Yeoman Richard Mark Zweifach, a well-respected leader in the Navy who recently announced his retirement. In his 20 years of service Richard was a leading voice in the Navy.

He joined the Navy in the summer of 1983 and had basic training in Orlando. Upon leaving basic training Richard began his service in Mississippi until settling in New London, CT for almost 4 years. The Navy transferred him to San Diego in 1987 and remained there until 1993. In 1994, Richard went back East to Kings Bay, GA spending 2½ years on the USS *West Virginia*. After his service in Georgia, Richard returned to San Diego to serve with the Submarine Development Squadron. He has served in this capacity for more than 6 years.

While serving his country, Richard still found time to get married and raise a family. He is a devoted husband to his beautiful wife, Traci, and a dedicated father to his three wonderful children, Richard Jr., Ariel and Ashley.

Although he retires from the Navy, Richard still plans to keep his active community lifestyle. He is thinking about joining the local police force, which would allow him to continue to help others.

I congratulate Richard on his 20 years of service to our country and applaud his continued devotion to help others. His dedication to our country and his family is a model for all. Thank you on behalf of the people of the 4th Congressional District and others who benefited from your hard work and dedication.

COMMEMORATING THE 20TH ANNIVERSARY OF THE ORPHAN DRUG ACT AND THE NATIONAL ORGANIZATION FOR RARE DISORDERS

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 19, 2003

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H. Con. Res. 147, Commemorating the 20th Anniversary of the Orphan Drug Act and the National Organization for Rare Disorders. This resolution honors an exemplary organization that has vastly improved the lives of millions of Americans with rare diseases and their families.

The Orphan Drug Act of 1983 filled a void in our health care system—the fact that drug companies were unwilling or unable to invest in developing products to treat rare diseases. The incentives that the Orphan Drug Act put into place have made dramatic improvements in the availability of treatments for the 25 million Americans affected by rare diseases. In the decade before the Orphan Drug Act was signed into law, ten treatments for orphan disease were developed. In the last 20 years, more than 200 treatments for rare diseases have been approved by the FDA, and more than 900 more are in development.

The National Organization of Rare Disorders has represented a lifeline for millions of families since its inception in 2003. It has been instrumental in providing information about diseases and their treatments, and for connecting individuals impacted by rare disorders with advocacy organizations and with each other, allowing patients and families to gain invaluable support and advice from those suffering from the same conditions. It has connected patients with drug assistance programs, to help them to access life improving drugs that they otherwise could not afford.

I want to draw particular attention to the various disorders characterized as types of epilepsy. The Orphan Drug Act has been instrumental in the development of epilepsy treatments such as sodium valproate and a gel form of diazepam, or Valium. But, for epilepsy and thousands of other disorders, there is much more work to be done. New evidence of the damaging long-term effects of seizures represents an additional call to action to develop better treatments for the various epileptic disorders. Twenty-five percent of epilepsy patients have uncontrolled seizures, and even those for whom medicine or surgery are effective still suffer seizures and their damaging effects.

Mr. Speaker, I thank Congressman FOLEY and the entire Energy and Commerce Committee for introducing this important resolution and bringing it to the floor today. And I applaud the perseverance of NORD founder

Abbey Meyers and the other courageous individuals who advocated for the passage of the Orphan Drug Act and have given a brighter future to millions of American families over the last 20 years. For these reasons, I strongly encourage my colleagues to vote for H. Con. Res. 147.

TRIBUTE TO COUNCILMAN MIKE GIN

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Ms. HARMAN. Mr. Speaker, I rise today in honor of my friend, Mike Gin, who retires this week from the Redondo Beach City Council after 8 years of distinguished service.

In addition to his work on the council, Mike's service to his community covers a wide range of community groups including the Redondo Beach Historical Society, the Chinese Americans United for Self-Empowerment, and the Beach Cities Branch of the American Heart Association. He is also a member of the Redondo Beach Sister Cities Association, the Redondo Beach Jaycees, the Redondo Beach Chamber of Commerce and the Redondo Beach Rotary Club.

I consider Mike a ''lunch-pail politician,'' who prides himself on doing the little things—like parks and potholes—that help make the City of Redondo Beach one of the nicest places to live in California. He was famous for holding Saturday morning office hours with his constituents so he could spend time listening to their concerns.

But Mike's retirement from the City Council does not mean he is giving up on public service. In fact, this month Mike left his information services job to become Deputy to another good friend, Los Angeles County Supervisor Don Knabe. I am delighted that much of the area Mike will cover for Supervisor Knabe remains in my own Congressional district. My staff and I look forward to working with Mike in this new capacity.

Mr. Speaker, I will miss Mike's warm personality on the City Council but am glad he will continue to play an active role in our community.

IN RECOGNITION OF THE VILLAGE REFORM DEMOCRATIC CLUB ON THEIR 20TH ANNUAL DINNER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to the Village Reform Democratic Club on the occasion of their 20th annual dinner. For over 20 years, the Village Reform Democratic Club has led its neighborhood in addressing and resolving important political and community issues.

As is their custom the Village Reform Democratic Club will honor community leaders at their dinner. This year the honorees will be the Caring Community for 30 years of service to the elderly, as well as Saul Fishman and Barry Benepe, two men who in their own ways have helped shape the cultural and social fabric of New York City.

For more than 30 years, professionals and volunteers at the Caring Community have helped and empowered seniors within our community, offering a broad array of programs and services, including the home delivery of over 50,000 hot meals, assistance with shopping and home repairs and assistance to seniors who are crime victims.

Most importantly Caring Community operates four centers for older adults. These four centers, at Our Lady of Pompeii Church, Independence Plaza, The First Presbyterian Church and Center on the Square, are open Monday to Friday from 9 to 5. These centers offer a wide variety of programs for seniors as well as a place where seniors can enjoy a hot meal.

One center is located at Independence Plaza, a neighbor to the World Trade Center. The seniors in Independence Plaza were displaced from their homes for weeks or longer. Without the crucial assistance provided by the Caring Community, many of these seniors would have been unable to deal with the psychological impact of 9/11 and might never have returned to their homes.

In this time, when government is reducing spending on all services, and charitable giving, especially by corporations has been severely curtailed, along with the Village Reform Democratic Club I am proud to recognize all those who contribute their time and resources to the work of the Caring Center.

Saul Fishman is a pioneer in the fight for domestic partnership for gay and lesbian couples. Beginning in 1987, Saul served as spokesman for the Coalition for Lesbian and Gays Rights and later as the chair of the Family Diversity Coalition and as a member of the Mayor's Partner Task Force.

As an activist in the Civil Service Bar Association, the union representing attorneys employed by New York City, Saul persuaded the union to become the first to offer domestic partner benefits to its members. Saul later convinced the municipal unions to demand that the City of New York grant bereavement leave to any City employee who lost a domestic partner. In a dramatic confrontation with then Mayor Koch, Saul got the mayor to accept the provision.

Having secured significant protections for the domestic partners of New York City employees, Saul turned to the wider issue of domestic partnership law to protect all New Yorkers. After I agreed to sponsor the bill in the City Council, Saul lobbied other members to be cosponsors and supporters. Passage of that first domestic partnership bill was hailed as an unparalleled victory for the gay and lesbian community. It is a testament to Saul Fishman's unending energy and unwavering belief that all people should have equal protection under the law.

In 1976 Barry Benepe had the idea of bringing fresh produce directly to the people of New York City, and with that the Green Market was born. Starting with three sites and few local farmers, over the past 2½ decades the Green Market has expanded to 18 locations bringing over 150 farmers from 4 states.

Consumers appreciate the fresh alternatives offered by the Green Market, while many environmentalists commend the transportation and environmental benefits of locally grown foods. For this Barry was awarded a Special Citation by the New York Chapter of the American Institute of Architects. He also received a Municipal Art Society's Certificate of Merit as well as a National Recognition Award from the America the Beautiful Fund.

It is members like Saul Fishman and Barry Benepe that have made the Village Reform Democratic Club a force for social change in New York City.

In recognition of these outstanding contributions, I ask my colleagues to join me in honoring the Caring Community, Saul Fishman, Barry Benepe and Village Reform Democratic Club on the occasion of their 20th annual dinner.

HONORING TAIWAN PRESIDENT CHEN SHUI-BIAN

HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. BEAUPREZ. Mr. Speaker, I rise today to congratulate Taiwan President Chen Shui-bian on his third anniversary in office. Three years ago, voters in Taiwan elected Mr. Chen Shui-bian, President of the Republic of China on Taiwan, which marks the first successful and peaceful transition of power in Taiwan's history. Now in the year 2003, President Chen continues to make strides towards ensuring a robust democracy by guaranteeing the Taiwanese people freedom of speech and fundamental human rights.

Many events have transpired in Taiwan since President Chen Shui-bian has taken office. Over the last three years, President Chen has sought a meaningful dialogue and maintained a positive interaction with China. Unfortunately China has ignored President Chen's gestures of goodwill and has continued to deploy missiles along the coastal provinces aimed at Taiwan. It is my hope the leadership in China will realize that peace and stability in the Taiwan Strait is in everyone's best interest.

Taiwan has also endured the outbreak of the alarming disease Severe Acute Respiratory Syndrome (SARS). I wish Taiwan's government and people every success in their endeavor to fight vigorously in order to control further spread of the SARS disease. As Secretary Powell said recently, SARS recognizes no international borders. Taiwan has made significant achievements in the field of healthcare and its medical experts have the potential to greatly contribute to the science of health. That said, Taiwan shouldn't be ruled out from the World Health Organization mainly due to political concern or obstruction.

We in the U.S. Congress appreciate Taiwan's friendship and support over the years. Since the terrorist attacks of September 11, 2001, Taiwan has offered assistance in helping the United States fight global terrorism. At the conclusion of Operation Iraqi Freedom, the Taiwan government issued a statement supporting the Coalition of the Willing's cause and pledging to offer humanitarian assistance to postwar Iraq, just as they graciously did in the case of Afghanistan. Taiwan's generosity is welcomed and I look forward to a strong relationship with Taiwan for many years to come.

Mr. Speaker, on the eve of President Chen's third anniversary in office, I join my

colleagues in wishing President Chen all the best.

TAIWAN PRESIDENT CELEBRATES THIRD ANNIVERSARY IN OFFICE

HON. GREGORY W. MEEKS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. MEEKS of New York. Mr. Speaker, today, I am honored to pay tribute to Taiwanese President Chen Shui-bian on the occasion of his third anniversary in Office. During the last 3 years, he has maintained both economic and political growth for his country. The people of Taiwan enjoy one of the best standards in Asia and full political freedom.

President Chen has also strengthened Taiwan's relationship with the United States. We appreciate his support of our war against terrorism and his pledge of humanitarian assistance to post-war Iraq.

Mr. Speaker, the spread of SARS has threatened the entire region and permeated the west with sporadic infections. We hope that President Chen will be successful in controlling the spread of SARS in Taiwan and that Taiwan will not suffer the disastrous economical and medical set back such an epidemic would promote.

Once again, I congratulate President Chen on 3 years of service to the Taiwanese people and wish him well as he strives to develop the political and economic landscape of Taiwan.

AVE MARIA UNIVERSITY

HON. MARIO DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I come to the floor to welcome the building of a new university and, in fact, a new town in the district I represent. Ave Maria University—Florida's newest university—will be an academic center of international scope founded on Catholic religious beliefs and committed to developing a Division I caliber athletics program. The university plans to grow to about 5,000 undergraduate and graduate students and will have a full curriculum of traditional liberal arts, sciences and engineering programs, as well as a comprehensive graduate program offering masters and doctoral degrees.

The campus will cover approximately 750 acres, including a world class golf course in eastern Collier County. The university, which has already begun construction on an interim campus, is seeded with approximately $200 million from Thomas S. Monaghan, Domino's Pizza Founder and former owner of the Detroit Tigers, who is also chairman of the Ave Maria Foundation in Ann Arbor, Michigan.

The town that will house Ave Maria University will be developed through a joint partnership between the university and the Barron Collier Companies. This town will produce endless economic benefit for surrounding communities and will serve as a great home for Florida's newest university.

Ave Maria University will bring academic excellence, athletic competition and strong Catholic principles to one of America's fastest growing communities. As America congratulates Florida on the creation of the nation's newest Catholic university, I welcome this wonderful addition to Southern Florida.

This university will provide endless opportunities for students seeking a first-rate education within a Catholic university setting. Additionally, Ave Maria University will bring growth to the surrounding areas and a great potential to recruit superior faculty and staff.

While Ave Maria University is one of my newest constituents, I speak on behalf of the 25th Congressional District, South Florida and the entire state in congratulating Ave Maria University and welcoming the university and its students to Collier County.

ASIAN PACIFIC AMERICAN HERITAGE MONTH

SPEECH OF

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 19, 2003

Mr. SCHIFF. Mr. Speaker, since 1990, we have honored the lives and accomplishments of Asian Pacific Americans during the month of May. From the early 1800s to the 21st century, Asian and Pacific peoples have played a vital role in the development of the United States and have made lasting contributions in all elements of American society. Asian Pacific Americans have helped to define what it means to be an American, to work to advance the needs of all.

I am proud that the region I represent in Congress is such a diverse one and is home to many people of Asian Pacific heritage—Asian Pacific American communities such as Chinese, Filipino, Korean, Japanese, and Vietnamese Americans. In California's 29th District, cities like Alhambra, Altadena, Burbank, Pasadena, Glendale, Monterey Park, San Gabriel, South Pasadena and Temple City boast thriving, active Asian American communities. The City of Glendale, for example, boasts the nation's fourth largest Korean American population in the United States.

In fact, just last month, I was privileged to travel to South Korea to address the increasingly important political, social and economic issues that have emerged on the Korean peninsula. The Congressional delegation trip focused on security issues on the Korean Peninsula, the plight of North Korean refugees and the abysmal human rights conditions in the North—issues important to my constituents and all Americans.

But, in honoring Asian Pacific Americans this month, I also honor those individuals and organizations in my District whose accomplishments and contributions to our community have been immeasurable.

It is my honor to recognize Cause-Vision 21 and its esteemed founder, Charlie Woo. The organization is dedicated to advancing the political empowerment of the Chinese American and Asian American communities through voter education, community outreach and leadership development. Each year, they organize the Chinese American Student Internship Coalition (CASIC), a program that provides Chinese American college students with the opportunity to gain hands on experience with the political process and a deeper understanding of issues important to the Chinese American community.

Earlier this year, I named Dr. Annie Chin Siu of Alhambra as one of the Women of the Year in California's 29th District. Her continued efforts to help our youth, the development of commerce, the preservation of our historical legacy and her devotion to the improvement of public safety are remarkable. The recipient of numerous awards, including the Los Angeles Chinese Chamber of Commerce's Service Award and the Los Angeles Chinatown Public Safety Award, Dr. Liu is the consummate volunteer. She has been active in the Chinese American Museum, Chinese Historical Society of Los Angeles, and the Los Angeles Chinatown Public Safety Association, among many others.

Mr. Speaker, I am fortunate that my District is home to many of Southern California's most prominent and well-known Asian American leaders. California State Assemblymember Judy Chu, Monterey Park City Councilmembers Michael Eng and David Lau, and California Board of Equalization Member John Chiang have all displayed an unsurpassed dedication to their constituents.

These are just a few, specific examples of the impact people of Asian Pacific heritage have had in the communities of California's 29th District.

As a member of the Congressional Asian Pacific American Caucus, Congressional Caucus on Korea, the United States—Philippines Friendship Caucus, and Taiwan Caucus, I have had the opportunity to support legislative efforts important to constituents in my district.

As a nation, we must embrace the cultures that have worked to advance the needs of all Americans and have helped to define what it means to be American. I ask my colleagues to join me today and throughout this month to showcase and celebrate the contributions—both historical and present—of Asian Pacific Americans in our nation, our cities, and our communities.

PERSONAL EXPLANATION

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. FLETCHER. Mr. Speaker, on Monday, May 19, 2003, had I been present for rollcall vote Nos. 192, 193, and 194, I would have voted the following way: rollcall vote No. 192—''aye,'' rollcall vote No. 193—''aye,'' rollcall vote No. 194—''aye.''

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. GALLEGLY. Mr. Speaker, on May 19, 2003, I was unable to vote on H. Con. Res 166, Expressing the Sense of Congress in Support of Buckle Up America Week (rollcall vote 192), H.R. 1018, James L. Watson United States Court of International Trade Building (rollcall 193), and H. Con. Res. 147,

Commemorating the 20th Anniversary of the Orphan Drug Act and the National Organization for Rare Disorders (rollcall vote 194). Had I been present, I would have voted ''yes'' on all three measures.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall vote No. 192. If present, I would have voted ''yea.''

IN HONOR OF MARC HAKEN AND THE 50TH ANNIVERSARY OF HILLTOP VILLAGE CO-OPERATIVE #4

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. ACKERMAN. Mr. Speaker, I rise today to honor the 50th Anniversary of the Hilltop Village Co-operative #4 in Hollis, Queens, NY, and its President, Marc Haken for his strong leadership, dedication and commitment to the Hilltop Village community.

On Sunday, August 15, 1952, the New York Times recognized the opening of this grand cooperative with a front page article. Constructed under the National Housing Act of 1952, Hilltop Village Co-operative #4 was the fourth and final completed section of the 500-unit Hilltop Village, occupying 150 acres of Queens, NY. Hilltop Village Co-op #4 opened in December 1953 with 296 apartments and Joseph Desner as its first president.

Since its completion in 1953, Hilltop Village #4 has emerged as a leader in the local community. Among the major projects the group has spearheaded and accomplished are: the creation of the Hollis branch of the Queens Borough Public Library on 202nd Street and Hillside Avenue, the construction of a Post Office on 197th Street and Hillside Avenue, and the implementation of a new bus route, the Q76, which runs down Francis Lewis Boulevard to the subway terminal at Hillside Avenue and 179th Street. In addition, residents of Hilltop Village were instrumental in the establishment of the Holliswood Jewish Center.

Community involvement has been especially prominent under the dynamic leadership of Marc Haken, who has served as president of the co-op, and has been reelected every three years since 1978. Under Mr. Haken's direction the co-op became a member of civic and community organizations such as the 107th Precinct Council, the Queens Civic Congress, whose co-op committee is chaired by Mr. Haken, and the Friends of Cunningham Park.

The co-op also makes financial contributions to several local charitable organizations including the Queens Women's Center, the Hollis branch of the Queens Borough Public Library, the Jamaica Estates Volunteer Ambulance Corp., the Hatzolah Volunteer Ambulance Corp., the Youth Committee of Community Board #8 and to the 107th Precinct of the New York City Police Department. In addition, the co-op donates roof space for radio antennas to both the Jamaica Estates Volunteer Ambulance Corp and the New York City Police Department. It also provides landscaping services for the center divider of Francis Lewis Boulevard. In Marc Haken's 25 years as president of Hilltop Village Co-operatives, the co-op has expanded its prominent role as a leader in the local community.

I commend Mr. Haken and the Hilltop Villages' Board of Directors—Michael Rodi, Miriam Null, Bernice Ackerman, Adrienne Bayuk, Steven Kasavana and Miguel Ramos—for their continued dedication and commitment to community service. I ask my colleagues in the House of Representatives to please join me in wishing Marc Haken, the Board of Directors, and the shareholders of Hilltop Co-operatives many more years of success as they celebrate the 50th Anniversary of this wonderful residential community.

ASIAN PACIFIC AMERICAN HERITAGE MONTH

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Ms. SOLIS. Mr. Speaker, I rise today to honor May as Asian Pacific American Heritage Month and to pay tribute to the 120,000 individuals of Asian descent that live in my congressional district.

I am fortunate to represent an ethnically diverse district that has experienced first hand the economic and cultural contributions of the Asian Pacific American community.

Although less than 4 percent of the U.S. population is Asian, I am proud that 19 percent of my congressional district is of Asian descent.

Some cities in my congressional district, have a well-established Asian Pacific American community.

Montery Park, for example, is home to a Chinese and Chinese-American community.

Monetery Park is 60 percent Chinese and its City Council is majority Asian as well.

Other cities in my congressional district, like West Covina, have experienced an increase in its Asian population in more recent times.

From 1980 to the present, West Covina's Asian Pacific American population has grown from 4 percent to 23 percent.

In addition to this recent growth, the Japanese community in West Covina has long been an important part of the city.

On June 3, the East San Gabriel Valley Japanese Community Center, located in West Covina, will celebrate its 52nd Anniversary.

The East San Gabriel Valley Japanese Community Center provides important services like:

Japanese language classes from the kindergarten to the high school level;

Martial art and cultural classes like Japanese classical dance; and

A year round program for its Japanese American senior and retired citizens.

The East San Gabriel Valley Japanese Community Center has significantly contributed to the strength of West Covina and the greater San Gabriel Valley.

Asian Pacific Americans bring richness not only to our culture, but also to our economy and to our advancement as a nation.

Asian Pacific Americans have made vast contributions in the fields of medicine, technology, and agriculture that benefit all Americans.

Throughout times of heightened national security, Asian Pacific Americans have fought to protect democracy in every war since the Civil War.

For example, despite the disturbing racism towards Japanese Americans during World War II, Japanese Americans volunteered to serve in the armed forces as part of the 442nd Infantry Regimental Combat Team.

The 442nd Regimental Combat Team remains the most decorated unit in U.S. military history.

Not only did these Japanese servicemen show their loyalty to the United States, but they also earned more than 18,000 individual decorations in less than two years. These noble men deserve our recognition.

In closing, I would like to honor the memory of a truly remarkable woman, the late Congresswoman Patsy Mink.

In my 2 years working with Patsy, I quickly came to admire her sprit and determination.

Patsy was a true warrior, a champion for the causes of equality, civil rights and environmental justice—causes important to the Asian Pacific American community and all communities.

As the first Asian-American woman in Congress, Patsy Mink was a hero to many.

Patsy may not be with us in body any longer, but her spirit continues to thrive as we celebrate May as Asian Pacific American Heritage Month.

HONORING BERNICE BECK OF KILLEEN, TEXAS

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. EDWARDS. Mr. Speaker, last week, Central Texas, the City of Killeen and Ft. Hood lost a friend with the passing of Bernice ''Bernie'' Beck. Some people will be known for their accomplishments in life. Others will be known for their strength of character. My friend; Killeen's friend; Ft. Hood's friend, Bernice Beck, will be known for both.

Some will be remembered for service to country in time of war. Others will be remembered for service to community in time of peace. Bernice Beck will be remembered for both.

I will miss Bernie Beck, because he was a dear friend, but his lasting legacies cannot be missed, not even by those who never knew him—Stillhouse Hollow Lake, Ft. Hood's III Corps Headquarters, the Soldier Development Center, the Soldier Service Center and Army family housing improvement program—these are but a few of the important projects that bear the imprint of Bernie Beck's commitment to the community and soldiers he loved.

I'll never forget the first time I met Bernie Beck. It was 1990, and I was campaigning for Congress. I asked for his support. In his typical quiet but firm determination, he said I would have it, under one condition. He wanted to know that I would work to get on the Armed Services Committee because of Ft. Hood. I

did. He gave it. I won and a wonderful friendship was started. Somehow, Bernie Beck always seemed to know how to get things done, whether it was business or politics.

In the 13 years I knew Bernie, never once did he come to me to ask for something selfish. It was always something for Ft. Hood, for soldiers and their families, and for his beloved Killeen.

When I was still trying to learn where the bathrooms were in Congress, Bernie Beck and his fellow patron of Ft. Hood, Tommy Joe Mills, introduced me to the powers to be in Congress and the nooks and crannies of the Pentagon. You see, unknown to many, those two would come to D.C. every year and wine and dine key staffers, Members of Congress and Army officials at their own expense . . . well, usually at Bernie's expense. Tommy Joe's gregariousness and Bernie's quiet determination—what a combination. What Bob Hope and Bing Crosby were to entertainment, Beck and Mills were to Ft. Hood. They were an unforgettable partnership that surely only the Good Lord could have brought together . . . and we are all the better for it.

Whether it was General B.B. Bell in Europe last month or the Chief of the Staff of the Army, Rick Shinseki last week, when I met with Army leaders anywhere, they asked about Bernie Beck. They admired him, because he always cared about the Army family.

Some people get things done by shouting. That was not Bernie Beck. Some people inspire by their eloquent orations. That was not Bernie. But, when Bernice Beck spoke, often quietly, people listened and things got done. That was the measure of respect he earned from all of us blessed to know him.

I'll never forget the last time I saw Bernie Beck. It was in Killeen at our community event honoring Ft. Hood soldiers about to be deployed to Iraq. How appropriate for this World War II combat veteran who spent 4 years in Europe fighting Hitler's forces . . . 58 years later sitting quietly in the crowd, never ever forgetting those who serve our nation.

Bernie Beck understood that one day he would be saved by grace, not by good works, but he also knew that helping others was a way to carry out the great commandment to ''love thy neighbor as thyself.''

Now, that day has come and Bernie Beck is blessed to be in that special place that God surely saves for those of faith who walked humbly, while making life's path better for those who follow.

May God bless his spirit, just as He blessed us by bringing Bernie Beck into this world and into our lives.

TRIBUTE TO LAKESIDE HIGH SCHOOL

HON. DENISE L. MAJETTE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Ms. MAJETTE. Mr. Speaker, On April 26, 2003, more than 1,200 students from across the United States visited Washington, DC to compete in the national finals of the We the People: The Citizen and the Constitutional program, the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from Lakeside High School, a DeKalb County school in my district, represented the state of Georgia in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The 3-day We the People national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

Independent studies by the Educational Testing Service (ETS) revealed that students enrolled in the We the People program at upper elementary, middle, and high school levels ''significantly outperformed comparison students on every topic of the tests taken.'' Another study by Richard Brody at Stanford University discovered that students involved in the We the People program develop greater commitment to democratic principles and values than do students using traditional textbooks and approaches. Researchers at the Council for Basic Education noted:

> [T]eachers feel excited and renewed. . . . Students are enthusiastic about what they have been able to accomplish, especially in terms of their ability to carry out a reasoned argument. They have become energized about their place as citizens of the United States.

The class from Lakeside High School recently participated in the national competition in Washington, DC. It was inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a Nation. It is important for future generations to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. I commend these young ''constitutional experts'' for reaching the We the People national finals: Teacher—Richard Barbe; Students—Jordan Bailey-Hoover, William Bretherton, Stuart Cardwell, Morgan Clemons, Matt Connors, Ann Elise Cutrer, Ross Elliott, Susan Fang, Katherine Fountain, Zack Goodman, Heather Greenfield, Shabbnam Jeddi, Erika Larson, Jonathan Lesesene, Jerel Lewis, Matt Lipkin, Cara Lynch, Courtni Mills, Munira Mohamed, Vishal Patel, Clarence Quarterman, Ryan Rice, Caitlin Roberson, Kyle Smithers, Callan Steinmann, Karen Usselman, Karl Weidenmann, Jackie Williams, and Ethan Wu.

THE TELECOM INDUSTRY

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. GONZALEZ. Mr. Speaker, the news for the Telecom industry is still not good. While there are certainly signs of recovery, there is also significant weakness in the industry.

The Wall Street Journal reported on Monday, April 28, that capital spending by the six major telecom operators was down an average of 19 percent in the first quarter, compared to the same quarter last year. This is 19 percent lower than already low capital spending.

One reason for the lack of spending is regulatory uncertainty. The Federal Communications Commission ruled in February that some of its regulations on broadband should be eliminated. The only problem is that the FCC still has not issued its rules, so companies cannot make their capital spending plans.

Cuts in capital spending mean fewer jobs for those workers who make telecommunications equipment, and those who install it. It means less broadband availability for underserved areas. It means less competition in broadband services. The FCC needs to work to reverse these trends, and should start by issuing the order it agreed on more than 3 months ago.

TRIBUTE TO PRESIDENT CHEN SHUI-BIAN OF TAIWAN

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. WU. Mr. Speaker, I rise today to congratulate Taiwan President Chen Shui-bian on his third anniversary in office. Under his leadership, Taiwan is now a prosperous democracy respecting human rights and civil liberties. In addition, Taiwan and the United States enjoy a strong trade relationship. We are Taiwan's number one trading partner and Taiwan is our eighth.

With the recent outbreak of SARS, we see the absolute necessity of all countries sharing medical information. Viruses and germs know no boundaries. International cooperation and collaboration are vital in preventing the further spread of SARS. I therefore hope that Taiwan will soon gain observer status in the World Health Assembly this May. Taiwan's 23 million people deserve full access to all available information about diseases and cures.

I appreciate Taiwan's efforts in seeking a dialogue with China and maintaining peace and stability in the Taiwan Strait. I hope that China will demonstrate its good will by engaging in peaceful talks with the people of Taiwan about the island's future political status.

I hope that the longstanding friendship between our two democracies continues to blossom and strengthen in the years ahead. Congratulations to the people of Taiwan and President Chen.

TRIBUTE TO PEGGY FOUKE WORTZ ATHENA OF THE INLAND VALLEYS AWARD

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Riverside, California are exceptional. Riverside has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Peggy Fouke Wortz is one of these individuals. On Wednesday, May 21, 2003 Peggy will be awarded the ATHENA of the Inland Valleys at a lunch in her honor.

Peggy learned from a very early age the value of community service and volunteerism. She was born in Michigan and is the granddaughter of Mr. R.E. Olds, the inventor and founder of Oldsmobile cars. Throughout her childhood, her grandparents and parents demonstrated the same openhearted generosity that she would embrace in her adult life.

In 1940, Peggy married Mr. Philip B. Fouke and six years later they moved to Riverside, California where they raised three children. After the death of Mr. Fouke, Peggy married Mr. James M. Wortz in 1975 and dedicated herself to her family and community. Her involvement in the community includes service on various boards and committees as well as personal financial donations.

A few of the organizations that Peggy has been active in include: Charter Member, California Baptist University; Board of Governors, California Community Foundation; Past President, The Junior League; Founder/President The Living Desert Reserve; Board of Directors, The Mission Inn Foundation; President, Riverside Community Film; Board of Directors, Riverside Community Hospital Foundation; Founder and Board of Trustees, UCR Foundation; Founder, The Volunteer Center; Board Member, Riverside YMCA; and Founder, The Frank Millen Club.

Peggy's tireless passion for community service has contributed immensely to the betterment of the community of Riverside, California. Peggy has been the heart and soul of many community organizations and events and I am proud to call her a fellow community member, American and friend. I know that many community members are grateful for her service and salute her as she receives the ATHENA of the Inland Valleys Award.

THE NEED FOR UNITED STATES BANKRUPTCY COURT PROCEEDINGS TO OCCUR ON A DAILY BASIS IN BAKERSFIELD, CALIFORNIA

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. THOMAS. Mr. Speaker, I rise today to introduce legislation that would authorize the creation of an additional bankruptcy court for the United States District Court for the Eastern District of California. The legislation would also express that it is the sense of Congress that bankruptcy proceedings should be conducted in Bakersfield in Kern County, California on a daily basis.

Very simply, I am introducing this legislation because my constituents have informed me that neither they, nor justice, is well-served by the status quo, under which Bakersfield is designated as a location where court is conducted once a month, with other matters disposed of through the use of video/teleconferencing.

According to constituent attorneys familiar with both the creditor and petitioner perspectives, one particularly significant problem is the distance that parties must travel in order to personally appear in the Fresno Division of the United States Bankruptcy Court for the Eastern District of California. Kern County encompasses a vast area, and those persons involved in contested proceedings who wish to be heard in Fresno must travel 110 miles from Bakersfield. Moreover, 429,310 of Kern County's 676,367 residents live in outlying communities and areas, and must travel much further to be heard in Fresno.

For example, those persons living in the communities of Boron, Frazier Park, or Rosamond with business before the Bankruptcy Court have to travel 172, 143, and 160 miles respectively to appear in Fresno. If those persons could appear in Bakersfield, they would only have to travel less than half as far—80, 37, and 57 miles respectively—and would be relieved of some of the hardships and costs inherent in traveling such distances. This travel is especially difficult for those parties who are sick, elderly, or have small children.

While a video/teleconferencing system is in place, I am told the system works well only approximately 70 percent of the time and that on occasion the video goes out, leaving only teleconferencing. My constituent attorneys firmly believe that appearances through the use of the video/teleconferencing system, not only decrease the decorum of the proceedings, but also decrease the parties' ability to effectively communicate, resulting in proceedings that are less efficient and fair than proceedings conducted in person before a live court and witnesses. In addition, Kern County attorneys inform me that because practitioners cannot file documents in Bakersfield, Kern County parties incur increased costs in the form of overnight or courier charges and face de facto shortened deadlines. Finally, the status quo also results in the almost automatic conduct of short proceedings via video/teleconferencing as well as the conduct of proceedings through a mixture of live and video/teleconferencing appearances, a practice which Kern County practitioners advise me places the parties they represent at a distinct disadvantage.

A strong case exists for the daily conduct of bankruptcy proceedings in Bakersfield when one considers the number of filings submitted by Kern County parties and general demographic data. In 2002, Kern County parties made 4,168 total bankruptcy filings, and through March 31, 2003, have made 1,042 total filings. During those time periods, total filings in the entire four-county Modesto Division were 5,045 and 1,324 respectively. Moreover, Kern County's 4,168 total filings in 2002 were greater than the 3,696 total filings in Fresno County and constituted over one-third of the 11,912 total filings in the entire eight-county Fresno Division. Finally, nationwide there are approximately 700,000 people per bankruptcy court, and Kern County, one of the fastest growing areas in the nation, has a population in excess of 676,000. By comparison, Stanislaus County, where the Modesto Division is located, has a population of 468,566.

I trust that my colleagues and the appropriate United States Judicial Conference officials will recognize the need to have bankruptcy proceedings conducted in Bakersfield on a daily basis and will work with me to ensure that our legal system is structured in a manner that allows for the effective and fair administration of our bankruptcy laws.

CELEBRATING THE 100TH BIRTHDAY OF MARY LOUISE AKERS

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. UDALL of New Mexico. Mr. Speaker, it is with great pleasure that I honor a very great lady today upon reaching her 100th birthday. Mary Louis Akers, a resident of Santa Fe, New Mexico, is commemorating, with a host of family and friends, a century of life upon this earth. I salute and applaud her on this remarkable event.

Mrs. Akers was born on May 20, 1903, in Sherman, Texas, to Margaret Crumley Melton and James Henderson Melton. Growing up during the first part of the 20th century was quite different than it is today. Mary Louise Melton's father delivered mail on horseback, and the family traveled by horse and buggy most everywhere they went, not owning a car until Mary Louise was a teenager. The train was used for long trips. The family always had an ''icebox,'' the forerunner of the refrigerator, and ice was delivered to their home every few days. Laundry was always done by hand.

Entertainment was very different when Mary Louise was young. Her primary entertainment was reading. The family did not own a radio until Mary Louise was a teenager, and the first ''silent'' movie she saw was a series that only ran on Saturday afternoons. Many years later, in the 1950's and after she was married, a television was purchased.

Mary Louise suffered infantile paralysis, now known as polio, when she was nine months old. The disease paralyzed her left side. Remarkably, however, she recovered from the disease and, fortunately, was left with little residual, and unnoticed, effects.

Mary Louise attended Kidd Key College in Sherman, where she studied voice. Her first

job was as a teacher in Rockfort, Texas, eighteen miles from Sherman, where she taught the first four grades. It was during those years that she met her future husband, Homer Akers, who was training to be a Presbyterian minister. They married on June 19, 1930, at the First Baptist Church in Sherman, and their first home was the Presbyterian manse in Natalia, Texas.

Homer and Mary Louise Akers spent the next 47 joyous years together until his death in 1977. During their marriage, Rev. Akers served as a minister in seven Texas communities, each about four years each, and in Portales, New Mexico, from 1947 until 1968, a location that will always be considered home. A daughter, Margaret Louise, was born in 1931, but only lived a few days past her third birthday. A second daughter, Kathryn Ann, was born in 1936, and Mary Louise currently lives with her in Santa Fe.

In her 100 years upon this earth, Mary Louise Akers is known and deeply loved and admired by hundreds, if not thousands, of those whose lives she has touched during her extraordinary 100-year journey. She loved serving as the primary greeter in all the churches her husband served and was the voice most heard when hymns were sung. She has always been a famous ''jokester,'' constantly teasing her family and friends with her delightful, bubbly personality and infectious laughter. Having a perfect memory, Mary Louise can readily recall wonderful, enduring and entertaining stories about all those whom she has known.

Mary Louise Akers has abundantly enjoyed her 100 years. She has always been extremely active and enjoys attending community events and traveling with her daughter. A few of her passions are having tea parties with family and friends, attending an Aker family reunion every July, receiving cards and letters and writing many herself, going to the beauty shop every Friday, and eating lots of strawberry jam every morning and drinking a Coke every afternoon, which she considers her ''tickets'' to a long life. Her very favorite ''supper'' food is a chocolate sundae with ''lots'' of syrup!

Mary Louis Akers is a very grand lady, and the world has been, and continues to be, a better place because of her presence in it. Driving a car up until her 80's, Mary Louise's CB ''handle'' was ''Sunshine Mary'', I can think of no more accurate way to describe this delightful lady. I invite all my colleagues in the U.S. House of Representative to join me in wishing Mary Louise Akers a very happy and healthy 100th birthday, may she enjoy many more to come!

TRIBUTE TO MAJOR GENERAL LEROY BARNIDGE, JR.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. SKELTON. Mr. Speaker, today I wish to pay tribute to an exceptional officer in the United States Air Force, an individual that a great many of us have come to know personally over the past few years—Major General Leroy Barnidge, Jr. General Barnidge, who currently serves as Director of the Air Force Office of Legislative Liaison, will retire after 32 years of honorable active duty Air Force service. During his time in Washington, and especially with regard to his work here on Capitol Hill, General Barnidge personified the Air Force core values of integrity, selfless service and excellence in the many missions the Air Force performs in support of our national security. Many Members and staff have enjoyed the opportunity to meet with him on a variety of Air Force issues and came to deeply appreciate his character and many talents. Today it is my privilege to recognize some of General Barnidge's many accomplishments, and to commend his superb service he provided the Air Force, the Congress and our Nation.

General Barnidge was commissioned through the ROTC program in 1971. His career has spanned a variety of operations and maintenance assignments, including major command and Joint Staff billets. He is experienced in aircrew operations, flight line maintenance and combat support activities. The General has also performed major command staff and executive support functions, as well as duties as a force planner and division chief in the Joint Staff. He has commanded a combat crew training squadron, a logistics group, an operations group, a B–1B bomb wing and the B–2 wing at Whiteman Air Force Base, MO. General Barnidge also completed the Program for Senior Officials in National Security at the John F. Kennedy School of Government, Harvard University, and Seminar XXI, Foreign Political and International Relations, at the Massachusetts Institute of Technology. He received special recognition in 1999 as the winner of the Air Combat Command Moller Trophy, recognizing him as the best Wing Commander among 28 other commanders. General Barnidge has amassed over 2,900 hours in the T–37, T–38, OV–10, B–52G, B–1B, and B–2 aircraft.

Throughout his distinguished career, General Barnidge exceptional leadership skills were always evident to both superiors and subordinates as he repeatedly proved himself in numerous select command positions.

In his years of working with the Congress, General Barnidge provided a clear and credible voice for the Air Force while representing its many programs on the Hill, consistently providing accurate, concise and timely information. His integrity, professionalism, and expertise enabled him to develop and maintain an exceptional rapport between the Air Force and the Congress. The key to his success, I believe, was his deep understanding of Congressional processes and priorities and his unflinching advocacy of the programs essential to the Air Force and to our nation. I am greatly appreciative of General Barnidge's 32–year service to his nation and offer my sincere wishes for a happy and prosperous retirement. On behalf of the Congress and the country, I thank General Barnidge, his wife Sandy, and his entire family for the commitment and sacrifices that they have made throughout his honorable military career. These family sacrifices demonstrate their commitment to our nation and their contributions do not go unnoticed. I know I speak for all of my colleagues in expressing my heartfelt appreciation to General Barnidge for a job well done. He is a credit to both the Air Force and the United States. We wish our friend God-speed in his retirement.

REGULATORY CERTAINTY IN TELECOM MARKETPLACE IS A MUST

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. ISSA. Mr. Speaker, today, I rise to talk about at an FCC decision that will have dire consequences for the telecommunications industry.

In February, I submitted an op-ed to Roll Call for their annual Telecommunications and Technology issue prior to the FCC vote on the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers. In the article, I reserved hope that the FCC would render a decision that could provide regulatory certainty to a sector that is in desperate need of stability. If not, I stated that Congress should step in and remedy this issue.

The FCC did not provide regulatory certainty when they voted, and three months later, they have yet to publish their decision. This decision, whatever it looks like in final form, will lead to litigation, assuring this issue will not be resolved for many years . . . unless Congress acts swiftly. Without regulatory certainty, the telecom industry, CLECs and ILECs alike, will continue to experience employee layoffs, cuts in capital expenditures, and little investment and growth.

The FCC had an opportunity to ensure regulatory certainty in the telecom marketplace, but failed. Congress must provide this much needed certainty, and it must do it soon.

USPS STAMP ADVISORY COMMITTEE SHOULD ISSUE A STAMP TO RAISE AWARENESS ABOUT PLIGHT OF MISSING AND EXPLOITED CHILDREN

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. BOEHLERT. Mr. Speaker, I rise today, along with Representative NICK LAMPSON, Chairman of the Congressional Missing and Exploited Children's Caucus, to announce the introduction of a resolution expressing the sense of the House of Representatives that the United States Postal Service (USPS) Stamp Advisory Committee should issue a stamp to raise awareness about the plight of missing and exploited children. It is only fitting that such an action should occur today, on National Missing Children's day.

My local community was shocked one afternoon in August 1993 when 12-year-old Sara Anne Wood was abducted near her home in Sauquoit, NY. Far too many parents have had to suffer with the agony of not knowing if their child was safe—we need to be more vigilant in protecting our nation's children.

The idea for this stamp should be credited to the Missing Children's Stamp Committee, a grass roots organization of concerned citizens from my district whose goal is to convince the USPS Stamp Advisory Committee to issue a commemorative stamp to raise awareness about the plight of all missing and exploited children nationwide.

The Missing Children's Stamp Committee was formed in January 1996 by Chairman John L. Brezinski, a Herkimer County Legislator, and is a subcommittee of the National Center for Missing & Exploited Children (Mohawk Valley Branch). In its first year of existence, the Committee received over 35,000 letters of support for their efforts from across the globe, but has run into many hurdles along the way. In the past, the USPS Stamp Advisory Committee has refused to approve such a stamp. Forty-five other sponsors of this legislation and I are calling on the USPS Stamp Advisory Committee to act and issue a stamp to address this critical issue.

According to the National Center for Missing and Exploited Children, 800,000 children are reported missing each year—that's almost 200 each day. According to a recent Zogby International poll of 1,401 adults, more than two-in-three Americans say the USPS Stamp Advisory Committee should issue a stamp raising awareness about the plight of missing and exploited children. The people have spoken and we must respond.

Mr. Speaker, I urge my colleagues to join me and the forty five other original cosponsors and show their support for this resolution, the need to raise awareness, and the need to protect our children.

ON THE OCCASION OF THE RETIREMENT OF COLONEL JOHN R. PRIDDY, USMC

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. ISTOOK. Mr. Speaker, I would like to pay tribute to Colonel John R. Priddy who is about to retire and return to private life after more than 28 years of selfless service to our great Nation as a United States Marine. Colonel Priddy graduated from the University of Central Oklahoma, and after completing Marine Corps Officer Candidate School was commissioned a Second Lieutenant.

He has served with numerous operational commands including the Third Marine Division; Second Battalion, Tenth Marines; the First Marine Expeditionary Brigade; and First Battalion (Reinforced), 12th Marines. He has served as a commanding officer three times; first aboard the USS *Midway* (CV–41) where he served as Commanding Officer of the Marine Detachment; next as the Commanding Officer of First Battalion (Reinforced), 12th Marines; and finally as Commanding Officer of the Marine Corps Combined Arms Training Center at Camp Fuji, Japan. Colonel Priddy is also a veteran of Operations Desert Shield and Desert Storm.

He has also served with support units at Marine Corps Development and Education Command, Quantico, Virginia; Naval Amphibious School, Little Creek, Virginia; Headquarters, United States Marine Corps; and in the Office of the Secretary of Defense. He is a graduate of the Marine Corps Amphibious Warfare School, the U.S. Army Command and General Staff College, and the U.S. Army School of Advanced Military Studies.

Colonel Priddy has served as the Commandant of the Marine Corps Fellow to the Center for Strategic and International Studies, and as the Chief of Staff of the Marine Corps Quadrennial Defense Review 2001 Group. In August 2001 he assumed duties as Executive Assistant to the Deputy Commandant for Programs and Resources, his last active duty position.

Throughout his career as a United States Marine, Colonel Priddy demonstrated uncompromising character, discerning wisdom, and a sincere, profound sense of duty to his country, his Corps, and especially to his Marines and their families. On behalf of my colleagues on both sides of the aisle, I would like to recognize Colonel Priddy's accomplishments and his devoted service to the Nation. Congratulations to him and his wife Diana, on the completion of a long and distinguished career.

IN RECOGNITION OF DR. LAWRENCE S. SYKOFF, ED.D.

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. PALLONE. Mr. Speaker, I proudly pause to recognize an exemplary individual, Dr. Lawrence S. Sykoff. Next month will mark Dr. Sykoff's 10th anniversary as head master of the Ranney School in Tinton Falls, New Jersey. Throughout his lifetime, Dr. Sykoff has demonstrated an aweinspiring commitment to learning and education, and it is for that reason that I ask my colleagues to rise up with me in honoring him.

Dr. Sykoff's love of education was apparent early on. He first qualified for the New York State teaching certification while studying as an undergraduate. After graduating from the Bernard Baruch School of Business Administration in New York, Dr. Sykoff took a job as an accountant but was drawn away from that field by an overwhelming desire to educate. Feeling the call to teach, Dr. Sykoff enrolled at the University of San Diego and earned a Master of Education degree in little over a year. He was later awarded a doctorate from the same university. By that time Dr. Sykoff was nationally known in academic circles for his studies of Middle School education and curriculum development.

In 1993, The Ranney School was in need of a new Head of School to lead it into the twenty-first century. That is when Dr. Sykoff arrived with a vision for Ranney's future that included growth, excellence, prosperity and technological superiority. Since his arrival ten years ago, Dr. Sykoff has been successful at achieving every one of those goals. Under his guidance, Dr. Sykoff transformed the Ranney School into a state of the art learning center that can accommodate nearly 750 students. With modern computer technology, including a distance learning auditorium, and the most up-to-date laboratories and classroom facilities, the Ranney School is better suited to prepare students for a prosperous future both personally and professionally.

In addition to being the Headmaster at the Ranney School, Dr. Sykoff has been an active member of several educational professional organizations including the Council for the Advancement and Support of Education, the National Association of Independent Schools, and the New Jersey Association of Independent Schools. He recently served as Treasurer of NJAIS and continues to serve on its Board of Trustees and Finance Committee. Dr. Sykoff is also past President of the New Jersey Patriot Conference for independent school sports. In addition, he is a member of the Board of the Monmouth County, New Jersey Chapter of the American Cancer Society and a past member of the Board of the Monmouth County Family and Children's Service.

Mr. Speaker, there can be no doubt that Dr. Sykoff has been a consistent advocate of educating our country's youth. I congratulate this remarkable individual for his lasting commitment to learning and ask that my colleagues rise up in recognition of the distinguished Dr. Lawrence S. Sykoff.

THE FCC AND THE TRIENNIAL REVIEW

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. PENCE. Mr. Speaker, it's been almost three months since the Federal Communications Commission (FCC) voted to approve the Triennial Review decision and still no written order has been issued by the Commission.

Mr. Speaker, the Triennial Review offered the FCC the unique opportunity to boost the Nation's economy and not only save jobs—but create jobs as well. The Commission, however, responded to the challenge by issuing a ruling that is contradictory—largely deregulating broadband on one hand while, on the other, continuing the enormous regulatory burden of requiring large local phone companies to lease their lines at below cost rates to competitors. While I applaud the Commission's deregulatory view on broadband, the lack of common sense in requiring one company to literally subsidize its competitors is beyond comprehension.

In conclusion, the FCC has succeeded in creating uncertainty in the marketplace, and uncertainty on Wall Street typically converts to financial disaster. The order that is now being written at the FCC will consist of several hundred pages of regulatory detail. I urge the Commission and its staff to finish its work on the Triennial Review order as quickly as possible so we can begin the tedious legal process of examining these details. Let us not forget that the jobs of thousands of hard-working men and women, and the renewed health of our Nation's economy, are at stake and deserve more than to be held captive by the red tape of the Federal bureaucracy.

HONORING THE 28TH ANNUAL CAPITAL PRIDE FESTIVAL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Ms. NORTON. Mr. Speaker, I rise to pay tribute to the 28th Annual Capital Pride Festival, a celebration of and for the National Capital Area's Lesbian, Gay, Bisexual and Transgendered communities, their families, and their friends.

Since its beginning in 1975, the Capital Pride Festival has grown from a small block

party to a seven-day series of events. This year, the Pride Parade will be held June 7–8, 2003 and will culminate into a street fair on Pennsylvania Avenue, attended by people of all backgrounds from the District and the region. I have marched in the Pride parades since coming to Congress, and I have seen the parade grow bigger and better. In 2002, I marched with over 120 contingents in the parade. More than 200,000 people attended the street fair in the shadow of the Capitol; and hundreds of vendors and organizers had stalls, booths, and pavilions. The street fair featured over five hours of local entertainers and national headline performers.

The citizens of the District of Columbia and I feel a special affinity to any American who does not share all the rights and privileges enjoyed by most citizens of the United States. I note that it has been eight years since the Majority changed a historic rule and the District of Columbia lost the first vote we ever won on the floor of the House of Representatives, in the Committee of the Whole, the least we were entitled to. I remind this body that our city of 600,000 residents is the only jurisdiction in the United States subject to ''Taxation Without Representation.''

My Lesbian, Gay, Bisexual, and Transgendered constituents feel this denial more acutely than most. Every April 15th they bear all the responsibilities of our democracy yet are denied complete access to its power to redress the injustices that befall Lesbian, Gay, Bisexual, and Transgendered Americans. Today many are serving their country in Iraq and in the military throughout the world, as District residents have in every United States' war without a vote on war and peace, or any other issue.

Similarly, Congress has not yet protected sexual orientation from discrimination in our country. Despite increasing reports of violence and physical abuse against Lesbian, Gay, Bisexual, and Transgendered Americans, Congress has not enacted protections against hate crimes. Congress must pass the Employment Non-Discrimination Act (ENDA). Congress must pass the Hate Crimes Prevention Act. Congress must pass the Permanent Partners Immigration Act. Congress must pass the No Taxation Without Representation Act.

In June, we will rejoice in the accomplishments of the Lesbian, Gay, Bisexual, and Transgendered community. We also will remember those who live on only in our hearts and prayers. As we ''Celebrate Pride'' and reflect, we must continue the fight for full democracy for the District of Columbia and full civil rights for the Lesbian, Gay, Bisexual, and Transgendered people in the United States of America.

Mr. Speaker, I ask the House to join me in saluting the 28th Annual Capital Pride Festival; its organizer: Whitman-Walker Clinic, and the sponsors and volunteers whose dedicated and creative energy make the Capital Pride Festival possible.

PERSONAL EXPLANATION

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. GRAVES. On Monday, May 19, 2003, I was unavoidably delayed and thus missed rollcall votes 192, 193, and 194. Had I been present, I would have voted ''nay'' on rollcall 192, H. Con. Res. 166; ''yea'' on rollcall 193, H.R. 1018; and ''yea'' on rollcall 194, H. Con. Res. 147.

RECOGNIZING OPERATION APPRECIATION

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Operation Appreciation, a community event sponsored by news talk radio, KMJ580, which will be honoring individual citizens along with a special recognition to the men and women from the Lemoore Naval Air Station who served in Operation Iraqi Freedom. Operation Appreciation took place on Saturday, May 17, at the California Army National Guard in Fresno, CA. The funds raised will benefit the Veterans Administration.

The individuals being honored provided invaluable service by volunteering their time on-air to keep the citizens of the Central Valley of California informed and up-to-date on the interests and actions of the war. Those recognized were: Col. John Summerville (retired)—Marines, Military Strategist, Victor Davis Hansen, Professor Bruce Thornton from California State University, Fresno, and Brig. General Ed Munger (retired)—Army.

Mr. Speaker, it is my pleasure to recognize and applaud Operation Appreciation and the individuals who were honored. I urge my colleagues to join me in extending our appreciation and best wishes to our military, veterans, the honorees, and KMJ580 radio.

MECKLENBURG DECLARATION OF INDEPENDENCE

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mrs. MYRICK. Mr. Speaker, two hundred and twenty-eight years ago on this date, May 20, 1775, the Scotch-Irish residents of Mecklenburg County, North Carolina declared themselves no longer subject to British rule. The day after the battle of Lexington, the Committee of Mecklenburg County, North Carolina, which was led by the Polk and Alexander families, drafted a document we refer to today as The Mecklenburg Declaration of Independence. In short, this document declared that the citizens of Mecklenburg County had dissolved all ties with Great Britain, and declared itself free and its people independent. One of my staff members, Andy Polk, is a direct descendant of the Polk and Alexander families.

As a member of Congress who represents much of Mecklenburg County, North Carolina, I must say that I am very proud to represent an area that is so rich in history and so dedicated to freedom. Ever since May 20, 1775, the citizens of Mecklenburg County have been a freedom loving people who have laid down their lives so that others might experience the greatness of being a free people, who have the right to govern themselves as they see fit. Many of these men who signed the Mecklenburg Declaration went on to fight and die in the American Revolution to secure the liberties and freedoms we have today.

I am happy to note that in honor of this date the great state of North Carolina has placed May 20, 1775 on its flag and on its seal to honor the men who signed the Mecklenburg Declaration. And to further honor them I ask that their names be placed in the Congressional Record. Such men should not ever be forgotten, lest we forget the freedom we hold so dear.

Signers of the Mecklenburg Declaration of Independence: General Thomas Polk, Robert Irwin, William Graham, Hezekiah Alexander, John Flennegin, John Queary, Matthew McClure, David Reese, Ephraim Brevard, Adam Alexander, Abraham Alexander, John Phifer, John Foard, Ezra Alexander, Waightstill Avery, John Davidson, Hezekiah J. Balch, James Harris, Richard Barry, Charles Alexander, Benjamin Patton, Richard Harris, Neil Morrison, William Kennon, Henry Downs, Zaccheus Wilson, and John McKnitt Alexander.

SPEAKING OUT FOR FAIRNESS IN TELECOMMUNICATIONS

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. RODRIGUEZ. Mr. Speaker, I rise today to express my concerns about the ongoing delay in the release of telecommunications competition rules. It has been three months since the Federal Communications Commission issued their ruling on the regulation of broadband technology, and we are still waiting for the rules of competition determined by that ruling to be released.

This delay leaves local phone companies and internet service providers without the information they need to make good business decisions. Without knowing the rules under which they must operate, they cannot make determinations about how and where to invest in research and development of new services and new technologies. However, the ultimate losers in this situation are American families and businesses who want and need reliable broadband service.

The telecommunications industry is the backbone of our nation's economy. Not only are hundreds of thousands of America's workers employed in telecommunications, but the services that these companies provide are vital to every business in the United States. Without the ability to quickly and accurately move data, commerce is threatened, and our position in the global marketplace is weakened.

I urge the FCC to act immediately to release the rules for competition. Without these rules, the telecommunications industry cannot move forward with development of the broadband infrastructure that will keep our economy and our nation on the path to recovery and growth.

REGARDING THE THIRD ANNIVERSARY OF THE ELECTION OF TAIWAN'S PRESIDENT CHEN SHUI-BIAN

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. LANGEVIN. Mr. Speaker, three years ago, Mr. Chen Shui-bian was democratically elected president of the Republic of China on Taiwan. His election showed the world that democracy was alive and well and could easily thrive in a Chinese society like Taiwan.

During the last three years, President Chen has continued his democratization program for Taiwan, which today has free elections at every level, a totally free press and a strong record on human rights. Taiwan continues to set an excellent example for other nations to follow.

Moreover, President Chen has on many occasions stressed that Taiwan and China must work together to discuss issues of mutual interest. President Chen has asked the Chinese mainland authorities to respect human rights and to accept the political reality that the two sides of the Strait are ruled separately by equal political entities. Any progress toward improved cross-strait relations must ensure protection of the interests of the 23 million people living in the Republic of China on Taiwan.

As a first step toward resumption of cross-strait dialogue, China should remove its military forces along Taiwan's coast. China has deployed 350 short-range missiles aimed at Taiwan and is adding 50 missiles a year. Instead of threatening with military might, I hope the two sides will work to resolve disputes and differences peacefully.

As the people of Taiwan prepare to celebrate their president's third anniversary in office, I also stress my support for the granting to Taiwan of observer status at the World Health Assembly this May. As the outbreak of SARS threatens Asia and the world, Taiwan must be included in all World Health Organization activities. Secretary of State Colin Powell recently said, ''infectious disease knows no borders and requires an effective and coordinated response at local, national and international levels.'' It is now time for Taiwan to be included in the global campaign for the protection of public health.

I hope my colleagues will join me in supporting these important goals. Thank you, Mr. Speaker.

IN HONOR OF TINA BURGESS-COAN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Ms. PELOSI. Mr. Speaker, it is with great personal sadness that I rise to pay tribute to Tina Burgess-Coan, who died peacefully on May 12, 2003. Beloved wife of the late Judge George ''Papito George'' Coan and devoted mother of William and Robert Burgess, she was a friend to so many and we were blessed to have her with us. Thank you, William and Robert, for sharing your wonderful mother with us.

Tina Burgess-Coan, affectionately known as ''Mama Tina,'' was born in Colombia, South America. In Colombia, she studied with the Carmelite Sisters and acquired the spiritual foundation for a life of charity and giving. Her relationship with the Carmelite Sisters continued to grow and guide her life of social and political activism.

On her way to San Francisco she spent time in Hollywood where she perfected her glamorous style, but we are so fortunate that she chose our city of San Francisco to be her home.

Mama Tina came into my life during my first term in Congress. Through the years, she continued to extend her loving support and generosity to my family and friends. She was actively involved throughout the San Francisco community, serving numerous neighborhood groups and individuals. Always there when she was needed, she gave abundantly of her time, her wisdom, and her delicious home-cooked meals.

Words cannot express my appreciation for Mama Tina's many years of love, generosity, and friendship to my family and the San Francisco community. Wherever she went, she made everyone feel a part of a large, caring family. She was one of a kind.

We will miss Mama Tina terribly but are grateful for every day we had with her.

JUSTIN CAGE—INDIANA MR. BASKETBALL

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Ms. CARSON of Indiana. Mr. Speaker, I rise to commend Justin Cage, Indiana Mr. Basketball 2003, from Indianapolis, IN.

A senior at Pike High School, Justin Cage has already had a phenomenal basketball career as a team member of the Pike Red Devils Boys Basketball team. Not only has he been named Indiana Mr. Basketball 2003, he also led his team to win the Indiana State Boys Basketball Championship (Class 4A). The Pike Red Devils finished the season with a perfect record of 29–0.

As a four year starter for Pike High School, Justin also contributed to winning the state title in 2001 and finished runner up for 2002.

Justin finished the season averaging 13.4 points and a team high of 7.0 rebounds.

He will continue his basketball career at Xavier University in Cincinnati, OH, where Justin plans to major in Business Administration.

I ask the House of Representatives to join me in saluting this extraordinary young man in his myriad achievements.

A TRIBUTE TO MINNIE IVERSON WOOD, STILL TEACHING MUSIC ON HER 95TH BIRTHDAY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. LEWIS of California. Mr. Speaker, I would like today to join the people of Loma Linda, California, in singing the praises of Minnie Iverson Wood, who has been teaching music and directing choirs for more than 75 years—and plans to continue teaching students after her 95th birthday on May 26th.

This remarkable teacher and musician got her start in music at Pine Tree Academy in her native Maine, and continued her education in voice and foreign languages at Columbia Union College in Takoma Park, Maryland and Catholic University of America. She took lessons in voice, choir conducting and piano in the United States, Europe and the Far East.

With her husband, Dr. Wilton Wood, Mrs. Wood went to China, where she taught at Far Eastern Academy in Shanghai and Hong Kong. She has taught music and conducted choirs at the Baltic Union Seminary in Riga, Latvia; the Malayan Seminary in Singapore; and the Philippine Union College. Back in the United States, she taught at Columbia Union College for 10 years and at Andrews University in Michigan for 16 years.

Mrs. Wood has conducted choirs around the world, and organized major musical events such as Handel's Messiah and Brahms' Requiem. She personally sang for President Truman, and her choirs performed for Presidents Eisenhower and Nixon. Her choral groups also sang a yearly memorial service at the Tomb of the Unknown Soldier in Arlington, Virginia.

Many of Mrs. Wood's musical groups have performed live on radio programs, including an a cappella choral group from Columbia Union College that gave weekly Sunday performances. She also organized the choir music for the Seventh-Day Adventist Church General Conference Session in Cleveland in 1958.

In addition to her long career as a music teacher, Mrs. Wood was a grade school teacher for 11 years. Her use of phonics helped her first grade class to be able to read at least one grade level above average by the end of each school year. The method was so successful she was asked to train other teachers in its use.

Mr. Speaker, as she reaches her 95th year, Minnie Iverson Woods continues to teach and mentor several dozen private students, and to be active on the Sabbath School Music Committee. Her students from 75 years of teaching will gather this week in a special Vespers concert to honor this wonderful teacher. Please join me in thanking her for a lifetime of making a joyful noise, and wishing her well in the years to come.

THIRD ANNIVERSARY FOR PRESIDENT CHEN SHUI-BIAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. TOWNS. Mr. Speaker, The Republic of China on Taiwan will be celebrating their President's third anniversary in office this May. I join Taiwan's friends in extending my congratulations to Taiwan President Chen Shui-bian.

During the last 3 years, Taiwan's president has strengthened relations with the United States. Taiwan has given us full support in our war against global terrorism and our war with Iraq and offered humanitarian assistance to post-war Iraq. Taiwan is our friend and we appreciate Taiwan's friendship.

We hope Taiwan will have an early resumption of talks with the Chinese mainland. Peace and stability in the Taiwan Strait is in everyone's best interest.

Also, we hope that Taiwan will be successful in stopping the spread of SARS and that Taiwan will receive observer status with the World Health Organization.

Congratulations, President Chen.

CONGRATULATING DOROTHY KELLY GAY AS SHE CELEBRATES 25 YEARS OF AMERICAN CITIZENSHIP

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. CAPUANO. Mr. Speaker, I rise today to honor Mayor Dorothy Kelly Gay, a friend and colleague who is celebrating 25 years of American citizenship. Hers is a story of the American Dream achieved. Dorothy Kelly Gay, born in Ireland, immigrated to the United States in 1968 to pursue a career in nursing. Today she serves as Mayor of my hometown Somerville, Massachusetts.

Like so many others who left their homeland for the shores of this great Nation, Mayor Kelly Gay has never forgotten why America is a land of opportunity. Her accomplishments are a reflection of her commitment to making life's struggles a bit easier for others. As a professional nurse she fought vigorously on behalf of her patients for better healthcare services and received awards from the Massachusetts Nurses Association. This passion for helping others expanded to elective office when Mayor Kelly Gay served on the Somerville School Committee from 1986–1993. She served as an elected member of the Governor's Council from 1992–1998 and was a candidate for Lieutenant Governor in 1998. In 1999 she made history when she was elected Somerville's first female Mayor.

Mr. Speaker, Mayor Kelly Gay has received numerous awards and achieved much during her years of public service. However, I think her personal story speaks volumes. During her 25 years of citizenship Mayor Kelly Gay has given back to this country in dedication what she received in opportunity. She is an asset to the City of Somerville and the residents she serves. I congratulate Mayor Dorothy Kelly Gay as she celebrates 25 years of American citizenship.

TO HONOR THE ASSOCIATION OF PERUVIAN INSTITUTIONS IN THE UNITED STATES OF AMERICA AND CANADA

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. PASTOR. Mr. Speaker, it gives me great pleasure to rise today to welcome the XIX Annual Convention of the Association of Peruvian Institutions of America and Canada, AIPEUC, to our Nation's Capital May 21 to 25, 2003. I particularly want to extend warm hospitality to a special participant at this convention, Peruvian Assistant Secretary of State Manuel Rodriguez, and to delegates from all eight chapters representing AIPEUC.

The AIPEUC, a nonprofit entity for technical assistance and support, is made up of 300 associated institutions that group Peruvian men and women from all occupations living in the United States and Canada. Its purpose is to strengthen the traditional ties of friendship and cooperation that unite Peru with the United States of America and Canada in the sectors of education, health, business, arts, and sports.

The AIPEUC is recognized for many important achievements including: Promoting the ''Nationality Law'' by which Peruvians residing in another country may keep dual nationality; supporting the victims of the 1996 Nazca Earthquake; constructing an education center in Nazca for 250 children; building a health center in San Juan de la Virgen in Tumbes for pediatric, dental, and general medicine; supporting surgical procedures for harelip for 50 children in Catacaos, Piura; and building a center for 80 adolescent mothers in Huancyo.

The AIPEUC represents an important sector of the American community and I am sure my colleagues are happy to join me in recognizing this commendable organization on the occasion of their XIX Annual Convention.

TRIBUTE TO THE HONORABLE LARRY COMBEST

SPEECH OF

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 19, 2003

Mr. HENSARLING. Mr. Speaker, today we recognize the distinguished career of my colleague, friend, and fellow Texan, Congressman Larry Combest.

Mr. Speaker, LARRY COMBEST has faithfully represented constituents of the 19th Congressional District of Texas for the last 18 years, truly representing the very best of West Texas from the Panhandle to the Permian Basin.

As a legislator, LARRY COMBEST has dedicated his entire career to helping farmers and ranchers, educators and small business owners live the American Dream.

As the former Chairman and current member of the House Agriculture Committee, LARRY COMBEST has put his background as a fourth generation West Texas farmer to work to improve agriculture in the United States and better the lives of farmers and ranchers everywhere.

Since he was first elected in 1984, LARRY COMBEST has been a common sense conservative leader in Congress, fighting for fiscally responsible government, less regulation and lower taxes on American families.

Mr. Speaker, as proof of his outstanding service to his constituents, voters in his district have re-elected LARRY COMBEST by ever increasing margins each year. You know you're doing something right when the people that know you best return you to Congress with more than 90 percent of their vote.

On behalf of my colleagues and my fellow Texans, we salute LARRY COMBEST for his service and his leadership and we thank him from the bottom of our hearts for all that he has done for Texas and for America.

We wish him and his wife Sharon the very best.

TRIBUTE TO MORGAN CHU

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Ms. PELOSI. Mr. Speaker, I rise to pay tribute to Morgan Chu, who is being recognized by the American Jewish Committee at its 24th Annual Learned Hand Award Dinner on May 21, 2003. This award is named in memory of Judge Learned Hand, one of America's great jurists and humanitarians, and is being given to Morgan Chu for his ''outstanding leadership in the legal profession'' and his ''strong voice of understanding and good will.''

Morgan earned an AB (1971), MA (1972), and PhD (1973) from UCLA, an MSL (1974) from Yale University and a JD (1976) from Harvard Law School, magna cum laude. He then clerked for Judge Charles Merrill of the U.S. Court of Appeal for the Ninth Circuit. In 1977, he began his career with the well known law firm of Irell & Manella, developing a reputation as one of the nation's top experts in intellectual property, becoming a partner and serving on the Irell & Manella executive committee for the past 18 years.

In his first year at the firm, Morgan distinguished himself by serving as the lead counsel for Matel, Inc. in a patent infringement trial. With his victory in the complex case, he became known as an enterprising young trial attorney who knew how to handle the complex legal issues associated with technology. Since then, he has won many other landmark cases, including the first trial involving a patent of computer software. The jury invalidated a patent in favor of his client.

The National Law Journal describes Morgan as a ''litigator of complex intellectual property, antitrust and first amendment cases . . . an innovator.'' The 2001 survey of company directors, law school deans, and lawyers by Corporate Board Member named him ''The Best Intellectual Property Lawyer in the Nation.''

Throughout his career Morgan has been recognized for his extraordinary talent, skill and success in the field of law. In 1983, he was dubbed a ''new superstar,'' and since then he has continually been listed among the ten top trial lawyers, and the most influential lawyers in Los Angeles and the nation. He was named as one of the ''Top Players in High-Tech Intellectual Property,'' and in 1991, the California Law Business Journal chose him as a member of their Dream Team.

Morgan was an Adjunct Professor of Law at UCLA and served as a judge pro tem. He has served on the Board of Directors of Public Counsel for many years and is currently a member of its Executive Committee. As part of his pro bono work, Morgan won the reversal of a first-degree murder conviction for an inmate on death row whose sentence and conviction had already been upheld by the Supreme Court. He is a remarkable man who has used his enormous talents to help his community.

Morgan and his wife, Helen, reside in Los Angeles. Known for his penchant for bow ties, he says he wears them because, ''it is easier to lean down and smell the flowers along the

way.'' Despite all his accomplishments he is a down-to-earth guy, whose company is downright enjoyable.

It is our great pleasure and honor to ask our colleagues to join us in paying tribute to our good friend, Morgan Chu, the worthy recipient of 2003's Learned Hand Award.

HONORING THE 62ND ANNIVERSARY OF THE BATTLE OF CRETE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mrs. MALONEY. Mr. Speaker, I rise today to mark the 62nd anniversary of the Battle of Crete by introducing this House Resolution which recognizes and appreciates the historical significance of the people of Crete during World War II.

This is a historic event with direct significance to the allies' victory of World War II. On May 20, 1941, thousands of German paratroopers and gliders began landing on Crete.

Both the allies and Nazis wanted Crete because of its strategic location. At that time the British controlled the island.

It was a very strong point on the lifeline to India and protected both Palestine and Egypt.

The Nazi invasion force included the elite German paratroopers and glider troops. Hitler felt this was to be an easy victory, yet he is quoted to have said shortly after the invasion, ''France fell in 8 days. Why is Crete free?''

The invasion of Crete took 11 days. It resulted in more than 6,000 German troopers listed as killed, wounded or missing in action. The losses to the elite 7th parachute division were felt so hard by the German Military it signified the end of large-scale airborne operations.

This valiant fight by the Cretan people began in the first hour of the Nazi airborne invasion. In contrast of the European underground movements that took a year or more after being invaded to activate.

Young boys, old men and women displayed breathtaking bravery in defending their Crete. German soldiers never got used to Cretan women fighting them. They would tear the dress from the shoulder of suspected women to find bruises from the recoil of the rifle. The penalty was death.

The Times (London) July 28, 1941 report that ''five hundred Cretan women have been deported to Germany for taking part in the defense of their native island.''

Another surprise for the German soldiers who invaded Crete was the heroic resistance of the clergy. A priest leading his parishioners into battle was not what the Germans anticipated.

At Paleochora, Father Stylianos Frantzeskis, hearing of the German airborne invasion, rushed to his church, sounded the bell, took his rifle and marched his volunteers toward Maleme to write history.

This struggle became an example for all Europe to follow in defying German occupation and aggression.

The price paid by the Cretans for their valiant resistance to Nazi forces was high. Thousands of civilians died from random executions, starvation, and imprisonment. Entire communities were burned and destroyed by the Germans as a reprisal for the Cretan resistance movement. Yet this resistance lasted for four years.

The battle of Crete was to change the final outcome of World War II. The Battle of Crete significantly contributed in delaying Hitler's plan to invade Russia.

The invasion was delayed from April to June of 1941. The 2-month delay in the invasion made Hitler's forces face the Russian winter.

The Russian snow storms and the sub zero temperatures eventually stalled the Nazi invasion before they could take Moscow or Leningrad. This was the beginning of the downfall of the Nazi reign of terror.

This significant battle and the heroic drive of the Cretan people must always be remembered and honored.

Democracy came from Greece and the Cretan heroes exemplified the courage it takes to preserve it.

Today, the courage and fortitude of the Cretan people is seen in the members of the United Cretan Associations of New York which is located in Astoria, Queens.

I congratulate the newly elected officials and look forward to working with them.

I request my colleagues to join me in honoring the Cretans in the United States, Greece, and the diaspora.

H. RES.—

Whereas 2003 marks the 62nd anniversary of the heroic Battle of Crete, which took place on the Greek island of Crete during World War II between Nazi German forces and the people of Crete assisted by the Allied armies;

Whereas the people of Crete fought tenaciously during the Battle of Crete, delaying for two months the Nazi German invasion of Russia;

Whereas this delay forced Nazi German forces to invade Russia in the face of the brutal Russian winter, changing the final outcome of World War II and leading to the defeat of fascism;

Whereas many historians agree that the Battle of Crete was one of the most significant battles of World War II;

Whereas the Battle of Crete contributed to saving the free world from Nazi German occupation, thus preserving democracy, freedom, and human dignity;

Whereas the Cretan Resistance Movement was organized to fight the Nazi German occupation of the island of Crete;

Whereas for 4 years, the Cretan Resistance Movement inflicted heavy casualties up Nazi German forces, including kidnaping a heavily-guarded Nazi German General, setting an example for all of the people of Europe to follow;

Whereas the people of Crete suffered savage reprisals for their heroic resistance when the Nazi German invaders randomly executed thousands of civilians and burned and destroyed entire communities;

Whereas many participants in the Battle of Crete and the Cretan Resistance Movement later emigrated to the United States and became American citizens; and

Whereas many of these citizens became members of the PanCretan Association of America, an organization comprised of Greek Americans with ancestry from the island of Crete and committed to preserving and promoting the rich culture and proud history of Crete: Now, therefore, be it

Resolved, That the House of Representatives—

(1) observes the memory of the fallen heroes of the Battle of Crete;

(2) honors the living men and women of Crete who, during World War II, fought an oppressive invader to preserve the ideals of freedom, democracy, and the pursuit of happiness; and

(3) commends the PanCretan Association of America or preserving and promoting the history of Crete and its people.

INTRODUCTION OF THE RURAL HEALTHCARE ACCESS IMPROVEMENT ACT OF 2003

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. SANDLIN. Mr. Speaker, I rise today to introduce the Rural Healthcare Access Improvement Act of 2003.

Our rural Medicare providers need help. For too long they have suffered the consequences of inadequate Medicare reimbursements that hurt physicians, hurt hospitals and most of all hurt patients. My constituents in East Texas have shared their concerns with me and I know full-well that we don't finally start acting to change this, our Nation's healthcare delivery system and our Nation's fellow citizens will suffer irreparably.

Last week Senator GRASSLEY bravely stood up during the Tax bill debate and offered an amendment that would help our rural providers. It passed in an overwhelming bi-partisan vote of 86–12 in the United States Senate. I applaud his efforts and the support from his colleagues in making the unique needs of our rural communities a priority.

We should not waste any more time in the House of Representatives in meeting the needs of our rural providers. Today, I offer the Rural Healthcare Access Improvement Act of 2003. This bill, similar in scope to Senator GRASSLEY's amendment offers real opportunities to assist our rural health care providers. As my colleagues know, the Center for Medicare and Medicaid Services uses a reimbursement formula that favors urban areas over rural areas. This formula is deeply flawed though and fails to allow our providers to even break even on many of their expenses. My legislation will directly assist our hospitals by equalizing Disproportionate Share Hospital (DSH) Payments, by equalizing urban and rural ''standardized payment'' levels, by assisting Critical Access Hospitals, and by establishing a floor on the geographic adjustments of payments for doctors' services. It will also improve reimbursement for home health services, ground ambulance services and hospital outpatient procedures.

We can not wait any longer. Our rural communities are desperately in need of help and we must answer their call.

MERCURY IN MEDICINE REPORT

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. BURTON of Indiana. Mr. Speaker, I submit the following report prepared by the staff of the Subcommittee on Human Rights and Wellness, Committee on Government Reform. This report is the result of a three-year investigation initiated in the Committee on Government Reform.

MERCURY IN MEDICINE—TAKING UNNECESSARY RISKS

I. EXECUTIVE SUMMARY

Vaccines are the only medicines that American citizens are mandated to receive as a condition for school and day care attendance, and in some instances, employment. Additionally, families who receive federal assistance are also required to show proof that their children have been fully immunized. While the mandate for which vaccines must be administered is a state mandate, it is the Federal Government, through the Centers for Disease Control and Prevention (CDC) and its Advisory Committee for Immunization Practices that make the Universal Immunization Recommendations to which the majority of states defer when determining mandates. Since the early to mid–1990s, Congress has been concerned about the danger posed by mercury in medical applications, and in 1997, directed the Food and Drug Administration (FDA) to evaluate the human exposure to mercury through foods and drugs.

In 1999, following up on the FDA evaluation and pursuant to its authority, the House Committee on Government Reform initiated an investigation into the dangers of exposure to mercury through vaccination. The investigation later expanded to examine the potential danger posed through exposure to mercury in dental amalgams. This full committee investigation complemented and built upon the investigations initiated by two of its subcommittees. In January 2003, the investigation continued in the newly formed Subcommittee on Human Rights and Wellness.

A primary concern that arose early in the investigation of vaccine safety was the exposure of infants and young children to mercury, a known toxin, through mandatory childhood immunizations. This concern had been raised as a possible underlying factor in the dramatic rise in rates of late-onset or ''acquired'' autism. The symptoms of autism are markedly similar to those of mercury poisoning.

Significant concern has been raised about the continued use of mercury in medical applications decades after the recognition that mercury can be harmful, especially to our most vulnerable population—our children. This report will address one form of mercury in medical applications, Thimerosal, as a preservative in vaccines.

In July 2000, it was estimated that 8,000 children a day were being exposed to mercury in excess of Federal guidelines through their mandatory vaccines.

One leading researcher made the following statement to the Committee in July 2000:

''There's no question that mercury does not belong in vaccines.

''There are other compounds that could be used as preservatives. And everything we know about childhood susceptibility, neurotoxicity of mercury at the fetus and at the infant level, points out that we should not have these fetuses and infants exposed to mercury. There's no need of it in the vaccines.''

The Food and Drug Administration's (FDA) mission is to ''promote and protect the public health by helping safe and effective products reach the market in a timely way, and monitoring products for continued safety after they are in use.'' However, the FDA uses a subjective barometer in determining when a product that has known risks can remain on the market. According to the agency, ''at the heart of all FDA's product evaluation decisions is a judgment about whether a new product's benefits to users will outweigh its risks. No regulated product is totally risk-free, so these judgments are important. FDA will allow a product to present more of a risk when its potential benefit is great—especially for products used to treat serious, life-threatening conditions.''

This argument—that the known risks of infectious diseases outweigh a potential risk of neurological damage from exposure to thimerosal in vaccines, is one that has continuously been presented to the Committee by government officials. FDA officials have stressed that any possible risk from thimerosal was theoretical: that no proof of harm existed. Upon a thorough review of the scientific literature and internal documents from government and industry, the Committee did in fact find evidence that thimerosal posed a risk. The possible risk for harm from either low dose chronic or one time high level (bolus dose) exposure to thimerosal is not ''theoretical,'' but very real and documented in the medical literature.

Congress has long been concerned about the human exposure to mercury through medical applications. As a result of these concerns, in 1997, Congress instructed the FDA to evaluate the human exposure to mercury through drugs and foods. Through this Congressionally mandated evaluation, the FDA realized that the amount of ethylmercury infants were exposed to in the first six months of life through their mandatory vaccinations exceeded the Environmental Protection Agency's (EPA) limit for a closely associated compound methylmercury. The FDA and other Federal agencies determined that in the absence of a specific standard for ethylmercury, the limits for ingested methylmercury should be used for injected ethylmercury. The Institute of Medicine, in 2000, evaluated the EPA's methylmercury standard and determined that based upon scientific data that it, rather than the FDA's, was the scientifically validated safe exposure standard.

Rather than acting aggressively to remove thimerosal from children's vaccines, the FDA and other agencies within the Department of Health and Human Services (HHS) adopted an incremental approach that allowed children to continue to be exposed to ethylmercury from vaccines for more than two additional years. In fact, in 2001, the Centers for Disease Control and Prevention (CDC) refused even to express a preference for thimerosal-free vaccines, despite the fact that thimerosal had been removed from almost every childhood vaccine produced for use in the United States.

On three occasions in the last 15 years, changes have been made to vaccine policies to reduce the risk of serious adverse effects. First, a transition from oral polio vaccine to injected polio was accomplished in the United States to reduce the transmission of vaccine-induced polio. Second, an acellular pertussis vaccine was developed and a transition from DTP to DTaP was accomplished to reduce the risk of pertussis—induced seizures in children. And third, when the Rotashield vaccine for rotavirus was linked to a serious bowel condition (intersucception), it was removed from the U.S. market. Ethylmercury has been largely removed from every major childhood vaccine manufactured for use in the United States, except the influenza vaccine, which continues to contain trace amounts.

This success, however, does not change the fact that millions of American children were exposed to levels of mercury through vaccines that exceeded comparable federal guidelines. Many parents, and a growing number of scientists, believe that this mercury exposure may have contributed to the explosive growth in autism spectrum disorders, and neurological and behavioral disorders that this country has experienced. The scientific evidence in this area is considered by some to still be inconclusive, in large part due to the lack of serious, effective inquiry by our health agencies. The federal government has an obligation to vigorously pursue the necessary research to determine the extent of the impact of these heightened exposures to ethylmercury on our population.

A second concern that arose during the investigation was the continued use of mercury in dental amalgams. Mercury has been used as a component in dental fillings since the Civil War era. The American Dental Association and its member dentists have taken a position that the mercury in fillings, which are considered toxic until placed in the tooth, and is considered toxic when removed from the mouth, is completely safe while in the human mouth. This position seems counter even to the ADA-funded research that shows the daily release of small amounts of mercury vapors in the human mouth where dental amalgams are present, as well as minute chipping and swallowing of the mercury fillings over time.

Babies and young children are exposed to this additional mercury. As developing fetuses, babies are exposed to mercury through the placenta. If pregnant women have mercury amalgams, they are unknowingly excreting low levels of mercury on a daily basis to their fetuses. Additionally, children who receive dental services through Medicaid are also potentially exposed to mercury. When these children need dental fillings, because of the low cost, only mercury amalgams are available for use. This concern remains under investigation by the Subcommittee on Human Rights and Wellness.

II. FINDINGS AND RECOMMENDATIONS

A. Findings

Through this investigation of pediatric vaccine safety, the following findings are made:

1. Mercury is hazardous to humans. Its use in medicinal products is undesirable, unnecessary and should be minimized or eliminated entirely.

2. For decades, ethylmercury was used extensively in medical products ranging from vaccines to topical ointments as preservative and an anti-bacteriological agent.

3. Manufacturers of vaccines and thimerosal, (an ethylmercury compound used in vaccines), have never conducted adequate testing on the safety of thimerosal. The FDA has never required manufacturers to conduct adequate safety testing on thimerosal and ethylmercury compounds.

4. Studies and papers documenting the hyperallergenicity and toxicity of thimerosal (ethylmercury) have existed for decades.

5. Autism in the United States has grown at epidemic proportions during the last decade. By some estimates the number of autistic children in the United States is growing between 10 and 17 percent per year. The medical community has been unable to determine the underlying cause(s) of this explosive growth.

6. At the same time that the incidence of autism was growing, the number of childhood vaccines containing thimerosal was growing, increasing the amount of ethylmercury to which infants were exposed threefold.

7. A growing number of scientists and researchers believe that a relationship between the increase in neurodevelopmental disorders of autism, attention deficit hyperactive disorder, and speech or language delay, and the increased use of thimerosal in

vaccines is plausible and deserves more scrutiny. In 2001, the Institute of Medicine determined that such a relationship is biologically plausible, but that not enough evidence exists to support or reject this hypothesis.

8. The FDA acted too slowly to remove ethylmercury from over-the-counter products like topical ointments and skin creams. Although an advisory committee determined that ethylmercury was unsafe in these products in 1980, a rule requiring its removal was not finalized until 1998.

9. The FDA and the CDC failed in their duty to be vigilant as new vaccines containing thimerosal were approved and added to the immunization schedule. When the Hepatitis B and Haemophilus Influenzae Type b vaccines were added to the recommended schedule of childhood immunizations, the cumulative amount of ethylmercury to which children were exposed nearly tripled.

10. The amount of ethylmercury to which children were exposed through vaccines prior to the 1999 announcement exceeded two safety thresholds established by the Federal government for a closely related substance—methylmercury. While the Federal Government has established no safety threshold for ethylmercury, experts agree that the methylmercury guidelines are a good substitute. Federal health officials have conceded that the amount of thimerosal in vaccines exceeded the EPA threshold of 0.1 micrograms per kilogram of bodyweight. In fact, the amount of mercury in one dose of DTaP or Hepatitis B vaccines (25 micrograms each) exceeded this threshold many times over. Federal health officials have not conceded that this amount of thimerosal in vaccines exceeded the FDA's more relaxed threshold of 0.4 micrograms per kilogram of body weight. In most cases, however, it clearly did.

11. The actions taken by the HHS to remove thimerosal from vaccines in 1999 were not sufficiently aggressive. As a result, thimerosal remained in some vaccines for an additional two years.

12. The CDC's failure to state a preference for thimerosal-free vaccines in 2000 and again in 2001 was an abdication of their responsibility. As a result, many children received vaccines containing thimerosal when thimerosal-free alternatives were available.

13. The Influenza vaccine appears to be the sole remaining vaccine given to children in the United States on a regular basis that contains thimerosal. Two formulations recommended for children six months of age or older continue to contain trace amounts of thimerosal. Thimerosal should be removed from these vaccines. No amount of mercury is appropriate in any childhood vaccine.

14. The CDC in general and the National Immunization Program in particular are conflicted in their duties to monitor the safety of vaccines, while also charged with the responsibility of purchasing vaccines for resale as well as promoting increased immunization rates.

15. There is inadequate research regarding ethylmercury neurotoxicity and nephrotoxicity.

16. There is inadequate research regarding the relationship between autism and the use of mercury-containing vaccines.

17. To date, studies conducted or funded by the CDC that purportedly dispute any correlation between autism and vaccine injury have been of poor design, under-powered, and fatally flawed. The CDC's rush to support and promote such research is reflective of a philosophical conflict in looking fairly at emerging theories and clinical data related to adverse reactions from vaccinations.

B. Recommendations

1. Access by independent researchers to the Vaccine Safety Datalink database is needed for independent replication and validation of CDC studies regarding exposure of infants to mercury-containing vaccines and autism. The current process to allow access remains inadequate.

2. A more integrated approach to mercury research is needed. There are different routes that mercury takes into the body, and there are different rates of absorption. Mercury bioaccumulates; the Agency for Toxic Substances and Disease Registry (ATSDR) clearly states: ''This substance may harm you.'' Studies should be conducted that pool the results of independent research that has been done thus far, and a comprehensive approach should be developed to rid humans, animals, and the environment of this dangerous toxin.

3. Greater collaboration and cooperation between federal agencies responsible for safeguarding public health in regard to heavy metals is needed.

4. The President should announce a White House conference on autism to assemble the best scientific minds from across the country and mobilize a national effort to uncover the causes of the autism epidemic.

5. Congress needs to pass legislation to include in the National Vaccine Injury Compensation Program (NVICP) provisions to allow families who believe that their children's autism is vaccine-induced the opportunity to be included in the program. Two provisions are key: First, extending the statute of limitations as recommended by the Advisory Commission on Childhood Vaccines from 3 to 6 years. Second, establishing a one to two-year window for families, whose children were injured after 1988 but who do not fit within the statute of limitations, to have the opportunity to file under the NVICP.

6. Congress should enact legislation that prohibits federal funds from being used to provide products or pharmaceuticals that contain mercury, methylmercury, or ethylmercury unless no reasonable alternative is available.

7. Congress should direct the National Institutes of Health to give priority to research projects studying causal relationships between exposure to mercury, methylmercury, and ethylmercury to autism spectrum disorders, attention deficit disorders, Gulf War Syndrome, and Alzheimer's Disease.

III. THIMEROSAL HAS BEEN USED IN VACCINES AND OTHER MEDICAL PRODUCTS FOR DECADES

A. A brief description of mercury

Mercury is a silver-colored metal, which unlike any other metal, is a liquid at room temperature. It flows so easily and rapidly that it is sometimes called quicksilver. The chemical symbol for Mercury is Hg.

Mercury has many properties that have made it popular for a number of commercial uses. For example, mercury expands and contracts evenly when heated or cooled. It also remains liquid over a wide range of temperatures and does not stick to glass. These properties have prompted its use in thermometers. Mercury conducts electricity and is used in some electric switches and relays to make them operate silently and efficiently. Industrial chemical manufacturers use mercury in electrolysis cells to charge substances with electricity. Mercury vapor, used in fluorescent lamps, gives off light when electricity passes through it. Before its health effects were well understood, mercury compounds were widely used in such common products as house paints and paper.

Various alloys (mixtures of metals) containing mercury have many uses. Mercury alloys are called amalgams. These would include silver amalgam, a mixture of silver and mercury that dentists use to fill cavities in teeth.

Mercury comes in many different forms—organic, inorganic, elemental, and metallic. As a result of its many practical uses, mercury became widespread in the environment. However, it is now widely recognized that overexposure to all forms of mercury can harm the central nervous system (brain) and the renal system (kidneys). This has led to regulatory actions to reduce the exposure of humans to mercury on many fronts. According to the Agency for Toxic Substances and Disease Registry (ATSDR): ''The nervous system is very sensitive to all forms of mercury.''

B. Thimerosal, which contains ethylmercury, has been used in medicines since the 1930's

In addition to its many commercial applications, mercury has been used in a number of medical applications. One such product that came into frequent use during the twentieth century was thimerosal. Thimerosal is an organic compound made up of equal parts of thiosalicylic acid and ethylmercury. It is 49.6 percent ethylmercury by weight.

Thimerosal was developed by Dr. Morris Kharasch (1895–1957; Ukraine/USA), a chemist and Eli Lilly fellow first at the University of Maryland (1922–1927) and then at the University of Chicago. He filed for a patent on June 27, 1929, for what he described as an alkyl mercuric sulfur compound (thimerosal), which he felt had potential as an antiseptic and antibacterial product. Dr. Kharasch was considered a pioneer in his field, contributing to the development of plastics and the creation of synthetic rubber. He also went on to found the Journal of Organic Chemistry.

In October 1929, Eli Lilly and Company registered thimerosal under the trade name Merthiolate. Merthiolate was used to kill bacteria and prevent contamination in antiseptic ointments, creams, jellies, and sprays used by consumers and in hospitals. Thimerosal was also used in nasal sprays, eye drops, contact lens solutions, immunoglobulins, and most importantly here—vaccines.

Thimerosal was patented the same year that Alexander Fleming discovered penicillin. But because it took more than a decade for penicillin to be fully developed, and large-scale production to begin, thimerosal was widely used in the interim. To the medical profession, who were without antibiotics during the 1930's and 1940's, thimerosal (marketed as Merthiolate) and other antiseptic products were gladly received.

Dr. H. Vasken Aposhian, Professor of Molecular and Cellular Biology and Pharmacology, University of Arizona discussed thimerosal's history during Congressional testimony:

''In the early thirties, in fact the 1940's and up until the mid–1950's, mercurials were used in medicine . . . The medical community . . . had nothing better to use. They had nothing better to use as a preservative at that time than thimerosal. And I would venture the opinion that it has just been going on because no one has objected to it. And there's no need for it any longer. And I don't know any medical community or scientific community that would agree to the need for having thimerosal in any vaccine.''

Thimerosal became the most widely used preservative in vaccines and other medical products. Its use in antiseptic products to prevent infections was common. By the time that the FDA conducted its review of mercury in 1999, more than 50 licensed vaccines contained thimerosal.

While thimerosal became widely used, there were repeated references in the scientific literature to the lack of substantial understanding of its safety. In numerous

publications, researchers suggested that caution be taken in human exposure. For example, a paper published in 1934 noted, ''little is known about the mercuric compounds when inoculated into humans. It is therefore preferable to use the minimum amount of this preservative.''

Eli Lilly ceased its production of vaccines in 1974. Shortly after the FDA advisory committee determined that thimerosal in over-the-counter products was no longer ''generally recognized as safe,'' Eli Lilly and other companies chose to cease production of products such as merthiolate and mercurichrome. By the mid–1980's, Eli Lilly was completely out of the business of manufacturing or selling thimerosal-containing products. However, thimerosal continued to be used in vaccines. In the 1990's, thimerosal was manufactured by numerous companies, including Sigma-Aldrich, Inc.; EM Industries, Inc. (now EMD Chemicals Inc., the North American extension of Merck KGaA); Dow Chemical Company; Spectrum Laboratory Products, Inc. (formerly Spectrum Quality Products, Inc.); and GDL International, Inc.

C. Mercury is a known neurotoxin, but methylmercury has been more carefully studied than ethylmercury

After more than a century of research, it has become widely accepted in the scientific and medical communities that mercury is a neurotoxin. While debate continues over what levels of exposure to mercury are safe, it is unquestioned today that overexposure to mercury in any form can cause neurological and renal damage. There is also a growing consensus around the theory that some individuals are more susceptible to harm from mercury than others, confounding efforts to adopt a population-level threshold for safe levels of mercury in the environment. A research paper published in 2002 summarized the scientific consensus very succinctly: ''Mercury and its compounds are cumulative toxins and in small quantities are hazardous to human health.''

Because of its many commercial applications and its widespread presence in the environment, methylmercury received the lion's share of the attention in the scientific community during the twentieth century. A concise history of the early development of scientific knowledge about methylmercury is found in Dr. Thomas Clarkson's, ''The Three Modern Faces of Mercury'':

''The first methylmercury compounds were synthesized in a chemical laboratory in London in the 1860s. Two of the laboratory technicians died of methylmercury poisoning. This so shocked the chemical community that methylmercury compounds were given a wide berth for the rest of the century . . . early in the twentieth century the potent anti-fungal properties . . . were discovered, leading to applications to seed grains, especially for cereal crops . . . Despite the widespread use, few cases of poisoning were reported for the first half of the twentieth century. However, in the late 1950s and 1960s serious outbreaks of alkyl mercury poisoning (methylmercury) erupted in several developing countries . . . Also in the late 1950s, evidence emerged of environmental damage from treated grain. It was observed in Sweden that predatory birds were developing neurological disorders . . . analysis . . . indicated a sharp rise in mercury levels.''

Public health concerns about methylmercury in the edible tissue of fish suddenly erupted in 1969 when fish from Lake St. Clair bordering Michigan were found to have high levels. This and other findings . . . have maintained public health concerns over this form of mercury.''

As a result of these emerging concerns, public health officials worldwide began researching methylmercury. Today, the scientific literature is replete with evidence on toxic effects of methylmercury. In 2000, the National Academy of Sciences published Toxicological Effects of Methylmercury, which concluded:

Methylmercury is highly toxic.

The data indicate that the adverse effects of methylmercury exposure can be expressed in multiple organ systems throughout the lifespan.

The research in humans on the neurodevelopmental effects of methylmercury is extensive.

Damage to renal tubules and nephron has been observed following human exposure to inorganic and organic forms of mercury. Symptoms of renal damage have been seen only at mercury exposures that also caused neurological effects.

The cardiovascular system appears to be a target for methylmercury toxicity in the same dose range as neurodevelopmental effects—at very low mercury exposures.

Studies in humans on the carcinogenic effects of methylmercury are inconclusive.

Methylmercury may increase human susceptibility to infectious disease and autoimmune disorders by damaging the immune system.

Methylmercury may adversely affect the reproductive system.

The medical literature is replete with references to the dangers to methylmercury:

''The major toxic effects of methylmercury are on the central nervous system. Its toxic action on the developing brain differs in both mechanism and outcome from its action on the mature organ . . . the action of methylmercury on adults is characterized by a latent period between exposure and onset of symptoms. The period can be several weeks or even months, depending on the dose and exposure period . . . paresthesia, numbness or a 'pins and needles' sensation is the first symptom to appear at the lowest dose. This may progress to cerebella ataxia, dysarrthia, constriction of the visual fields, and loss of hearing. . . . Cardiovascular disease . . . accelerated progression of carotid arteriosclerosis.''

The research is explicit that fetal brains are more sensitive than the adult brains to the adverse effects of methylmercury, which include:

Severe brain damage

Delayed achievement of developmental milestones

Neurological abnormalities such as brisk tendon reflexes

Widespread damage to all areas of the fetal brain, as opposed to focal lesions seen in adult tissue

Microcephaly

Purkinje [neuron] cells failed to migrate to the cerebellum

Inhibition of both cell division and migration, affecting the most basic process in brain development

Additionally, elevation in both systolic and diastolic blood pressure in seven year olds correlated with prenatal exposure to methylmercury . . . indicative of later cardiovascular problems.

Despite the fact that ethylmercury has been widely used in common medical treatments, ranging from vaccines to nasal sprays to ointments, comparatively little research has been done on its health effects. The few studies that have been done tend to indicate that ethylmercury is just as toxic as methylmercury.

The FDA never required the pharmaceutical industry to conduct extensive safety studies on thimerosal or ethylmercury. It appears that our Federal regulatory framework (the FDA and its predecessor organizations) failed to require manufacturers to prove thimerosal was safe. They failed to require industry to conduct adequate testing to determine how thimerosal is metabolized. The FDA failed to require that industry conduct studies to determine the maximum safe exposure level of thimerosal. These basic issues should have been proven prior to the introduction of thimerosal into the marketplace, but more than 70 years after its introduction, these issues have still not been adequately addressed. The introduction of thimerosal appears to have been based on a single uncontrolled and poorly reported human study in the 1920s, possibly in combination with animal and laboratory studies. However, this sole human study was not a true safety study and produced a faulty foundation on which to build a robust vaccine program in which young children would be forced to be repeatedly injected with multiple doses of ethylmercury.

During the pre-antibiotic 1920's, meningitis was a killer. Out of sheer desperation, the treating physician at a hospital dealing with dozens of patients facing a sure death from meningitis, tested thimerosal on about two-dozen patients. He injected the thimerosal intravenously, without apparent side effects. However, the treatment was not successful and all of the patients died. The leading industry scientists of that era involved in thimerosal research published a paper that made a brief reference to this study: ''Merthiolate was injected intravenously into 22 persons . . . these large doses did not produce any anaphylactoid or shock symptoms.'' In the paper, the authors acknowledge that Dr. K.C. Smithburn, the clinician who treated the meningitis patients, was not convinced of its efficacy: ''beneficial effects of the drug were not definitely proven.'' Drs. Powell and Jamieson also noted in 1930 that a ''wide range of toxicity and injury tests should be done.'' There is no evidence that Drs. Powell and Jamieson took their own advice and conducted studies to address these concerns.

As a result, in 1999, 70 years after the product was first licensed, neither the FDA nor the industry had followed through on determining a safe exposure level to thimerosal or ethylmercury. Thus, when facing a policy decision on thimerosal and vaccines, the FDA had to work from an ''assumption'' that the toxicity of ingested methylmercury was the same as injected ethylmercury.

One study that compared the toxicology of ethyl and methylmercury was published in 1985 in the Archives of Toxicology, written by researchers from the Toxicology Unit of the Medical Research Council of England. The researchers exposed rats to ethyl and methylmercury to ''compare total and inorganic mercury concentrations in selected tissues, including the brain, after the daily administration of methyl or ethylmercury and to relate these findings to damage in the brain and kidneys.'' This study found that both ethyl and methylmercury caused damage to the brains and the kidneys. It also found that male and female rats were affected differently:

''It has been well documented that one of the first toxic effects of methylmercury in rats is depressed weight gain or even weight loss . . . based on this criteria, ethylmercury proved to be more toxic than methylmercury . . . in both sexes . . . the concentration of total mercury (the sum of organic and inorganic mercury) and organic mercury was consistently higher in the blood of ethylmercury-treated rats . . . both alkymercurials damaged the dorsal root ganglia and 9.6 mg Hg/kg/day ethylmercury caused more damage than 8.0 mg Hg/kg/day methylmercury. Ethylmercury was more renotoxic than methylmercury . . . tubular dilation was frequently present . . . in kidneys . . . both damage and mercury deposits

were more widely spread in ethylmercury-treated rats.''

While there is frequent reference to the paucity of science in understanding the harm that ethylmercury can do, there is more understanding in the scientific community than government officials have shared with the Committee. The following dialogue between Congressman Dave Weldon (R–FL) and Dr. David Baskin during the Committee's December 10, 2002 hearing sheds a great deal of light onto the true nature of ethyl versus methylmercury.

Dr. Weldon: ''I have a couple of questions for Dr. Baskin about ethylmercury versus methylmercury. I have had some people say that data on methylmercury is fairly good, but we don't have good data on ethylmercury. I take it from your testimony there is actually quite a bit of data on ethylmercury and it's as toxic as methylmercury.''

Dr. Baskin: ''There is more data, more and more data on ethylmercury. The cells that I showed you dying in cell culture are dying from ethylmercury. Those are human frontal brain cells. You know, there has been a debate about . . . ethyl versus methyl. But from a chemical point of view, most chemical compounds that are ethyl penetrate into cells better than methyl. Cells have a membrane on them, and the membrane is made of lipids, fats. And ethyl as a chemical compound pierces fat and penetrates fat much better than methyl. And so, you know, when I began to work with some of the Ph.D.s in my laboratory and discuss this everyone said, 'oh gosh, you know, we've got to adjust for ethyl because it's going to be worse; the levels are going to be much higher in the cells.' So . . . I think at best they're equal, but it's probably highly likely that they are worse. And some of the results that we are seeing in cell culture would support that.''

Dr. Baskin explained that according to scientific research in humans and animals, brain tissue absorbs five times more mercury than other tissues in the body.

Dr. Weldon: ''Now, you said several times in your testimony that uptake in the brain is probably much higher than in other tissues. What do you base that statement on?''

Dr. Baskin: ''Well, the literature on methylmercury is much better than ethyl on this issue. And if you look at the studies, the brain is 2 percent of the body weight but took 10 percent of the exposure. So that's a five-fold preferential uptake.''

The testimony of Dr. Baskin builds upon earlier testimony that the Committee received from recognized experts in chemistry, toxicology and pharmacology. It includes the following statement from Dr. H. Vasken Aposhian, Professor of Molecular and Cellular Biology, and Pharmacology at the University of Arizona, who provided the Committee the following information about the evidence on mercury toxicity at the July 18, 2000 hearing:

''The mercury amalgams in your mouth, the so-called silver fillings, contain 48 to 50 percent of elemental mercury. These fillings continuously emit mercury vapor, which will go to the brain and is converted to mercuric mercury . . . Certain fish contain methylmercury; again, very rapidly taken up from the GI tract, transported quickly to the brain, and converted very slowly to mercuric mercury . . . thimerosal, which again will be taken up by the brain and quickly converted to mercuric mercury—all three forms are neurotoxic.

''By neurotoxic, we mean it will damage nerves and it will damage brain tissues.

''Let me just say as a final statement that there is no need to have thimerosal in a vaccine.''

In making a presentation to the Institute of Medicine's Immunization Safety Review Committee, in July 2001, the former Director of the Environmental Toxicology Program at the National Institutes of Health, Dr. George Lucier, proffered the following conclusions:

Ethylmercury is a neurotoxin.

Infants may be more susceptible than adults.

Ethylmercury should be considered equipotent to methylmercury as a developmental neurotoxin. This conclusion is clearly public health protective.

Ethylmercury exposure from vaccines (added to dietary exposures to methylmercury) probably caused neurotoxic responses (likely subtle) in some children.

While the debate over whether ethyl or methylmercury is more toxic will probably not be resolved in the near future, a consensus appears to be emerging that exposure to these different types of mercury cannot be considered in isolation. Rather, witnesses before the Committee stressed that in determining safe levels of mercury exposure, the cumulative level of exposure to all types of mercury must be considered. Dr. Jeffrey Bradstreet made the following observation at the July 19, 2002 hearing:

''More concerning to me in the Institute's treatment of mercury problems, was the almost complete absence of regard for compounding effect of thimerosal on pre-existing mercury levels. The NHANES Study from the CDC had already established that perhaps one in ten children is born to mothers with elevated mercury burden.''

D. Because of its toxicity, mercury has become heavily regulated.

As the dangers of mercury have become better understood, the United States and other governments around the world have taken actions to reduce the release of mercury into the environment. In 1972, the federal government halted the use of mercury compounds for many industrial uses, such the paint used on the hulls of ships and compounds used to prevent the growth of fungi in lumber, because the mercury had leached into the environment and found its way into the human food chain.

In 1972, while certain agencies within the federal government recognized that mercury was a cumulative poison that damaged brain cells, the FDA's vaccine division seems to have ignored the issue until 1999.

1. The EPA is Regulating the Release of Mercury Into the Environment

The Environmental Protection Agency (EPA) under the Clean Air Act regulates airborne emissions of mercury. In December 2000, the EPA announced that it would issue new regulations on the emissions of mercury from coal and oil-fired power plants. That action was taken because, ''mercury has been identified as the toxic of greatest concern among all the air toxics emitted from power plants.''

More recently, President Bush announced on February 14, 2002, that mercury emissions from power plants would be reduced 69% under his Clear Skies Initiative. Under this plan, mercury emissions would be reduced from the current level of 48 tons nationally to 15 tons by 2018. The EPA also regulates mercury emissions from municipal waste combustors, medical waste incinerators, and hazardous waste incinerators.

The EPA works both domestically and internationally to reduce mercury exposures in the environment. The ''Canada-United States Strategy for the Virtual Elimination of Persistent Toxic Substances in the Great Lakes Basin'' is an example of these activities.

2. Different Limits to Exposure to Mercury Have Been Established by Different Agencies

In the course of regulating mercury, different government agencies have established different minimum risk levels for daily exposure to mercury. Exposure to less than the minimum risk level is believed to be safe, while exposure that exceeds that level is believed to increase the chances of injury. All of the levels apply specifically to ingested methylmercury.

The EPA established the most conservative level: 0.1 micrograms of mercury per kilogram of body weight per day. Under this standard, an 11–pound baby (roughly 5 kilograms) could be exposed to up to 0.5 micrograms of mercury per day and be considered safe. This exposure standard is a marked contrast to the 25 micrograms of mercury that was contained in several childhood vaccines until very recently.

The most lenient federal minimum risk level for mercury is the FDA's, which sets its limit at 0.4 micrograms per kilogram of body weight per day. (The United Nations' World Health Organization sets a slightly higher limit of 0.47 micrograms per kilogram of bodyweight per day.) Falling in between is the U.S. Agency for Toxic Substances and Disease Registry (ATSDR) at 0.3 micrograms.

In 2000, the National Academy of Sciences issued a report titled, Toxicological Effects of Methylmercury, validating the EPA's lower limit as a ''scientifically appropriate level that adequately protects the public.''

Methylmercury guidelines

Agency	Guideline value for maximum daily consumption (µg/kg/day) (micrograms per kilogram of body-weight per day)	Guideline 'type'
EPA	0.1	Reference dose (RfD).
ATSDR	0.3	Minimal risk level.
FDA	0.4	Tolerable daily intake.
WHO	0.47	Provisional daily tolerable intake (converted from a weekly tolerable intake).

The Committee repeatedly heard from government officials that merely exceeding the guideline was not cause for concern. One Merck official, in teaching a Grand Rounds session to staff in November of 1999, postulated that the minimum risk level would need to be multiplied by ten to reach a level at which harm would be expected through exposure. Dr. Roberta McKee of Merck wrote:

''A number of environmental and public health agencies have set a Minimum Risk Level (MRL) for toxic substances. An MRL for ingestion is conceptually equivalent to the Reference Dose of the US Environmental Protection Agency, the Acceptable Daily Intake of the US FDA, and the Tolerable Daily Intake of the WHO. Any exposure to the substance below the MRL is assured to be safe, while exposure to ten times the MRL is assumed to place one at risk of overdose. Exposure at or near the MRL is assumed to be safe but should trigger deliberate and careful review.''

Based on Dr. McKee's explanation, many babies were exposed to levels of mercury that ''placed one at risk of overdose,'' and were exposed to amounts well over ten times the EPA's scientifically validated reference dose. For example, at a recent Committee hearing, Chairman Dan Burton (R–IN) discussed his own family's experience with vaccine injuries:

''My grandson received vaccines for nine different diseases in one day. He may have been exposed to 62.5 micrograms of mercury in one day through his vaccines. According to his weight, the maximum safe level of mercury he should have been exposed to in one day is 1.5 micrograms, so that is 41 times the amount at which harm can be caused.''

According to the analysis of Dr. McKee, based on the methylmercury ingestion guidelines, the Chairman's grandson would have

exceeded the ''ten times the MRL'' and therefore was placed ''at risk of overdose.'' In fact, with a 62.5 microgram exposure alone, the EPA, ATSDR, and FDA levels would have been exceeded by 10 times. Because the FDA chose not to recall thimerosal-containing vaccines in 1999, in addition to all of those already injured, 8,000 children a day continued to be placed ''at risk for overdose'' for at least an additional two years.

It should also be noted that none of the Federal guidelines on mercury exposure have been included specific provisions for safe exposure limits for infants and children. It is widely accepted that infants and young children would be five times more sensitive to the toxic effect of mercury or other neurotoxins than adults. ''Exposures early in life are reasonably of greater health concern . . . because of greater brain organ susceptibility.''

The FDA has conceded in recent years that many children received doses of ethylmercury through their vaccinations that exceeded the EPA's minimal risk level for methylmercury. However, it is also clear that many infants received doses of ethylmercury that exceeded the FDA's higher threshold.

3. Warnings Have Been Issued About Mercury in Seafood

The FDA's actions regarding the risk of medical exposures to mercury have differed greatly from their actions regarding food exposures to mercury. The agency has a long history of issuing warnings to the public to monitor their fish consumption due to concerns about mercury exposure. During the 1990's, the FDA repeatedly issued warnings advising pregnant women and young children to avoid certain fish, or to limit their consumption of these fish because of their mercury content. In September of 1994, the FDA issued an advisory entitled, ''Mercury in Fish: Cause for Concern?'' in which they stated:

''Swordfish and Shark taste great—especially grilled or broiled. But reports which state that these and other large predatory fish may contain methylmercury levels in excess of the Food and Drug Administration's 1 part per million (ppm) limit has dampened some fish lover's appetites. . .'there is no doubt that when humans are exposed to high levels of methylmercury that poisoning and problems in the nervous system can occur' . . . the types of symptoms reflect the degree of exposure . . .

''During prenatal life, humans are susceptible to the toxic effects of high methylmercury exposure because of the sensitivity of the developing nervous system . . . Methylmercury easily crosses the placenta, and the mercury concentration rises to 30 percent higher in fetal red blood cells than in those of the mother . . . none of the studies of methylmercury poisoning victims have clearly shown the level at which newborns can tolerate exposure . . . Pregnant women and women of child bearing age, who may become pregnant, however, are advised by FDA experts to limit their consumption of shark and swordfish to no more than once a month.''

Similarly, a March 2001 FDA advisory states:

''Some fish contain high levels of a form of mercury called methylmercury that can harm an unborn child's developing nervous system if eaten regularly. By being informed about methylmercury and knowing the kinds of fish that are safe to eat, you can prevent any harm to your unborn child and still enjoy the health benefits of eating seafood.. . . While it is true that the primary danger from methylmercury in fish is to the developing nervous system of the unborn child, it is prudent for nursing mothers and young children not to eat these fish as well.''

In addition to the public advisories, the FDA, in January of 2001, established an aggressive ''Education Plan on Methyl Mercury.'' In January 2001, Associate FDA Commissioner Melinda Plaiser, responding to Congressman William J. Coyne (D–PA) regarding the National Academy of Sciences' report on Methylmercury, wrote:

''[L]et me reiterate, the FDA's commitment to protecting the public's health and the environment regarding mercury.''

Furthermore, in their training materials for employees, the FDA reflects a slightly different emphasis on mercury's toxicity than what they presented to the Committee:

''People are exposed every day to a tremendous number of substances in our environment. These substances include major and trace elements that may or may not be essential for sustaining life . . . Other elements are not known to be essential but are constantly found in living tissues . . . Of these elements that have no known nutritional value, some have been found to be toxic at concentrations well below those of other nonessential elements. Lead, cadmium, and mercury are examples of elements that are toxic when present at relatively low levels.''

Other HHS entities have taken very strong mercury reduction positions. For example, the National Institutes of Health's (NIH) Division of Safety has initiated a program to make the NIH mercury-free. According to the Division's own website:

''Elemental (metallic) mercury and its compounds are toxic and exposure to excessive levels can permanently damage or fatally injure the brain and kidneys. Elemental mercury can also be absorbed through the skin and cause allergic reactions. Ingestion of inorganic mercury compounds can cause severe renal and gastrointestinal toxicity. Organic compounds of mercury such as methylmercury are considered the most toxic forms of the element. Exposures to very small amounts of these compounds can result in devastating neurological damage and death.

''For fetuses, infants, and children, the primary health effects of mercury are on neurological development. Even low levels of mercury exposure, such as result from a mother's consumption of methylmercury in dietary sources, can adversely affect the brain and nervous system. Impacts on memory, attention, language and other skills have been found in children exposed to moderate levels in the womb.

''The Campaign for a Mercury Free at the NIH seeks to eliminate, as far as possible, the use of mercury in NIH facilities; to encourage the use of safer alternatives in biomedical research; to increase general awareness of mercury hazards; and to prevent mercury pollution.''

This NIH program has initiated a ''Hatters Pledge'' program to recruit scientists to reduce the use of mercury at the NIH and to educate children on the dangers of mercury.

The NIH Hatters Pledge:

I will:

Improve my awareness of mercury hazards and how to reduce them.

Replace mercury thermometers and other mercury-containing items with non- or low-mercury alternatives if suitable alternatives are available.

Dispose of mercury wastes following NIH procedures.

Report spills of mercury.

On the NIH campus, call the Fire Department (911) who are the NIH hazardous material (HAZMAT) emergency responder.

Off campus, call the local fire department or facility's hazardous material (HAZMAT) emergency responder.

Have areas that might have been contaminated by mercury surveyed and decontaminated, if necessary.

4. Over the Course of Two Decades, the FDA Slowly Removed Ethylmercury From Many Medicinal Products

In 1980, the FDA began a lengthy regulatory process to remove ethylmercury products from over-the counter products like topical ointments, diaper rash creams, and contraceptives. Topical ointments are products used on the skin either for the treatment or prevention of skin infections or inflammatory processes. They are typically divided into four categories, first-aid products to be applied to small superficial wounds to prevent infection; skin wound protectant to provide a protective barrier to small wounds; antibiotic or antifungal creams to prevent or treat overt skin infection; and anti-inflammatory agents used to reduce inflammation and inhibit pruritis.

In 1980, the FDA asked their Over-the-Counter (OTC) Review Panel to conduct a massive review of OTC products. The panel opted to divide the task into categories, one of which was a review of OTC products containing ethylmercury.

As a result of the panel's work, in 1982, the FDA issued a proposed rule to ban thimerosal from OTC topical ointments. In addition to raising questions about the general effectiveness of thimerosal for preventing infections, the FDA found that thimerosal was too toxic for OTC use. Among the findings that they published were the following:

At the cellular level, thimerosal has been found to be more toxic for human epithelial cells in vitro than mercuric chloride, mercuric nitrate, and merbromim (mercurichrome).

It was found to be 35.3 times more toxic for embryonic chick heart tissue than for staphylococcus aureus.

Delayed hypersensitivity in 50 percent of the guinea pigs tested, indicating that thimerosal is highly allergic and that it is reasonable to expect humans to be equally allergic.

The FDA concluded that while it has been suggested that hypersensitivity may be due to the thiosalicylate portion of the molecule and not the ethylmercury, this was not confirmed.

They noted a Swedish study which found in healthy subjects the following levels of hypersensitivity to thimerosal: 10% of school children; 16% of military recruits; 18% of twins, and 26% of medical students.

In 1982, the FDA advisory panel concluded that thimerosal was not generally recognized as safe: ''The Panel concludes that thimerosal is not safe for OTC topical use because of its potential for cell damage if applied to broken skin and its allergy potential. It is not effective as a topical antimicrobial because its bacteriostatic action can be reversed.''

Despite this strong finding, the FDA's proposed ban on the OTC use of thimerosal was not finalized until 1998, 18 years later. At the time of the OTC review, the industry chose not to challenge the findings of the Panel regarding the toxicity of thimerosal in OTC products. It is unclear why the FDA chose to do nothing for 18 years after a ''not generally recognized as safe'' finding.

Although the FDA went through that 18–year regulatory process to remove thimerosal from topical ointments, apparently no one at the FDA was prompted to review the use of thimerosal in vaccines. Action to remove thimerosal from vaccines did not begin until 1999, in response to the Congressionally mandated review. This will be discussed in more detail later in this report.

At the time of the 1999 FDA review on thimerosal, it was learned that over 50 vaccines

contained thimerosal. On July 9, 1999, the American Academy of Pediatrics joined the U.S. Public Health Service in issuing a joint statement recommending the removal of all thimerosal from vaccines. On its website, the FDA provides the following rationale for its policy on thimerosal:

''Over the past several years, because of an increasing awareness of the theoretical potential for neurotoxicity of even low levels of organomercurials, and because of the increased number of thimerosal-containing vaccines that have been added to the infant immunization schedule, concerns about the use of thimerosal in vaccines and other products have been raised. Indeed, because of these concerns, the Food and Drug Administration has worked with, and continues to work with, vaccine manufacturers to reduce or eliminate thimerosal from vaccines.''

In 1999, the FDA was criticized by some for not taking more forceful action to remove thimerosal from vaccinations; as a result of the FDA decision to seek a gradual removal, many children continued to receive injections of the DTaP, Hib, and Hepatitis B vaccine that contained mercury well into 2001. Mercury-containing vaccines manufactured in the United States, up to today, continue to be administered to infants and small children in the United States and abroad.

E. Thimerosal is still used in some medical products

While the FDA has taken steps over the last 20 years to remove ethylmercury from topical ointments and most pediatric vaccines, a number of medical products continue to contain this preservative.

Some nasal and ophthalmic products containing thimerosal remain on the market.

About 75 percent of the flu vaccines, recently recommended to be given to children as young as six months, contain at least trace amounts of thimerosal.

Many adult vaccines contain thimerosal.

Vaccines containing thimerosal continue to be manufactured in the United States and delivered through the World Health Organization (WHO) to Third World Countries. The WHO has continued to require the use of multi-dose vials and to use preservatives, including thimerosal, to address storage and transportation issues.

Of additional concern to the Committee, but not discussed in detail within this report, is the continued use of thimerosal in adult vaccines. There is a growing emphasis on adult immunizations, including getting boosters to childhood immunizations. Additionally, all new military recruits, active duty, and reserve forces that are deploying overseas are routinely given a large number of vaccines, many containing ethylmercury. These vaccines are often given consecutively and all in the same day.

U.S. MILITARY VACCINE SCHEDULE

Vaccine	No. Doses	Initial entry	Troops in US	Deployed	Region or other	Thimerosal content
Anthrax	6 + annual	N/A	N/A	6 + annual	6 + annual	0
DtaP	N/A	N/A	N/A			0 (or 0.5 mcg/dose)
Hib	N/A	N/A	N/A		(People without spleens)	0
Hep A	3 + boosters	N/A	3 + boosters	3 + boosters	3 + boosters	0
Hep B	3	3	3	3 (Korea)	3 (Korea), Health Care Workers, STDs.	0 (or 0.5 mcg/dose)
Influenza A&B	1 Annual	1	1 annual	1 Annual	1 Annual (Health workers)	25 mcg/dose or 24.5, mcg/dose or 1, mcg/dose or .98 mcg/dose
Jap Enceph	3 + biannual boosters	N/A	N/A	3 + biannual boosters	3 + biannual boosters (Travel Rural Asia).	35 mcg per 1 mL dose or 17.5 mcg/0.5 mL dose
MMR (Live)	1	1	N/A	Seldom needed	NA (Health workers)	0
Meningococcal MGC	1 every 3 years	1	N/A	Within 3 years	Travel to mid-Africa, Arabia	25 mcg/dose
Pneumococcal 17; PCBV–7	N/A	N/A	N/A	N/A	N/A	0
Pneumococcal 123; PPV–23	1	1 (Pendleton)	N/A	N/A	(No spleen, other chronic diseases).	0 or 25 mcg/dose
Polio Inactivated IPV	1 booster dose	1	N/A		(Travel Africa Asia)	0
Rabies	Pre:(3 doses + booster)	N/A	N/A		(Veterinary bites)	0
Smallpox (Live)	1 every 10 years	N/A	1	1	1	0
Td; TT (25 mcg)	1 every 10 years	1	1 every 10 years	1 every 10 years	1 every 10 years	8 mcg/dose or 25 mcg/dose.
Typhoid Injectable	1 every 2 years	N/A	1 every 2 days	Every 2 years	Every 2 years (travel)	0
Varicella (Live)	2 doses if needed	Screen, 2 doses	N/A	N/A	N/A	0
Yellow Fever (Live)	1 every 10 years	(N, MC) 1	1 every 10 years	1 every 10 years	1 every 10 years (travel Africa, Pacific, South Am).	0
Possible Total Thimerosal Exposure.				110.5 mcg per shot day	135.5 mcg per shot day	

(EPA Safety Limit: 0.1 mcg/kg of body weight per day)

The Committee calculated the bolus dose exposure of adult males and females below:

Adult weight with exposure rates according to EPA Safety Limit

100 pound: 0.1 mcg/45.359 kg of body weight per day = 4.54

120 pound: 0.1 mcg/54.431 kg of body weight per day = 5.44

150 pound: 0.1 mcg/68.039 kg of body weight per day = 6.8

180 pound: 0.1 mcg/81.647 kg of body weight per day = 8.16

It is clear from this chart that with a maximum safe limit of 8.16 micrograms in a day, individuals receiving either 110.5 micrograms or 135.5 micrograms in one day may be at risk for injury from mercury exposure. Even in keeping with the safety margin of 10 times the safety limit, purported by Dr. Roberta McKee of Merck, individuals at each of these weights would be exposed to levels of mercury that would be expected to put them at risk for adverse reactions.

The Committee received documentation from one Air Force pilot who suffered from serious symptoms of Gulf War Syndrome. After failing to have his medical issues resolved through the military or the Veterans Administration (VA) medical system, Captain Frank Schmuck, a pilot, became so ill that he was no longer able to fly. He sought medical treatment outside the military medical system and was tested for heavy metals, and was found to have toxic levels of mercury in his system. After chelation therapy, he returned to good health and has resumed flying. Gulf War Syndrome victims are not routinely tested for heavy metal toxicity or treated with chelation therapy by the military or the VA. Given the lack of progress in finding other successes with recovery from this condition, this is an issue that both the Department of Defense (DOD) and the VA should be aggressively evaluating on behalf of Gulf War veterans.

IV. THERE ARE GROWING QUESTIONS ABOUT WHETHER MERCURY IN CHILDHOOD VACCINES IS RELATED TO AUTISM SPECTRUM DISORDERS

A. Autism Is Growing at Epidemic Proportions

1. Introduction

Autism was once considered a rare disease that affected an estimated 1 in 10,000 individuals in the United States. The Committee held its first hearing on the dramatic rise in autism in April of 2000. At the time, Federal agencies were estimating that autism affected 1 in 500 children in the United States. By 2002, the National Institutes of Health had adjusted that rate to 1 in 250 children in the United States. The Autism Society of America estimates that the number of autistic children is growing by 10 to 17 percent each year.

In that first hearing, Chairman Burton reported that according to U.S. Department of Education statistics, requests for services for school-age children with autism spectrum disorders had risen dramatically in every state.

Mr. Burton: ''California has reported a 273 percent increase in children with autism since 1988 . . . Florida has reported a 571 percent increase in autism. Maryland has reported a 513 percent increase between 1993 and 1998 . . . In 1999, there were 2,462 children ages 3 to 21 in Indiana diagnosed with autism. That is one-fourth of 1 percent of all the school children in Indiana, or 1 out of every 400 . . . This increase is not just better counting. If we want to find a cure, we must first look to the cause.''

In July 2000, Dr. Stephanie Cave shared her observations about the rapid growth of autism and the pressures it is placing on families and medical professionals:

''I am in family practice in Baton Rouge, LA. I want to express my deep appreciation to you and to the members of the committee for allowing me to testify. I am presently treating over 300 autistic children, with an additional 150 waiting to get in.

''We are treating children from all over the United States and getting calls from many places around the globe. This is truly an epidemic. If you have any idea that it is not, I invite you to sit in my office for 2 hours.''

2. Studies Are Documenting the Incredible Growth of Autism

In the 1990's, the CDC conducted two prevalence studies that confirmed dramatic spikes in autism cases. One was conducted in Brick Township, New Jersey, the other in Atlanta, Georgia.

In late 1997, after noticing an apparently larger than expected number of children with autism in their community, a citizen's group in Brick Township, New Jersey, contacted the New Jersey Department of Health and Senior Services (DHSS). Because of the complexity of the disorder and the concerns that environmental factors might play a role, the New Jersey DHSS, U.S. Senator Robert Torricelli, and U.S. Representative Christopher Smith contacted the CDC and the ATSDR for assistance. In response, the CDC

conducted an extensive prevalence investigation.

The rate of autism among children in Brick Township was 4 per 1,000 (1 in 250) children aged 3 through 10 years. The prevalence of the more broadly defined autism spectrum disorder was 6.7 per 1,000 (1 in 150) children. It is important to note that even though the families of Brick Township requested that the CDC include an evaluation of a possible link between autism and their children's immunization, the CDC chose not to do so. Their evaluation of the cause of the cluster of autism in Brick Township was inconclusive.

The CDC's Atlanta study confirmed the dramatic results of the Brick Township study. The CDC found that 1,987 of the 289,456 children aged 3 to 10 years in metropolitan Atlanta in 1996 were autistic (1 in 146). These numbers were 10 times higher than studies conducted in the 1980s and early 1990s.

Last November, a study on autism in California determined that the number of autistic individuals in that state has nearly tripled. Equally important, the study stated that the increase was real, and could not be explained by changes in diagnostic criteria or better diagnoses. The study, funded by the state legislature and conducted by the University of California at Davis, determined that the number of autistic people in that state grew by 273% between 1987 and 1998.

The main author of the study, Dr. Robert Byrd, said, ''It is astounding to see a threefold increase in autism with no explanation . . . there's a number of things that need to be answered. We need to rethink the causes of autism.''

The 2002 report confirmed a 210 percent increase in the number of new children professionally diagnosed with the most severe cases of autism entering the developmental services system between 2001 and 2002. The system added 3,577 new cases in 2002.

It is important to note that the figures reported in California do not include persons with Pervasive Developmental Disorder (PDD), PDD-Not Otherwise Specified (PDD-NOS), Asperger's Syndrome, or any of the other milder autism spectrum disorders. The California data reflect only those children who have received a professional diagnosis of level one, DSM IV autism—the most severe form of autism.

3. The Causes of the Autism Epidemic Are Not Known

The underlying causes of the explosion in autism remains a mystery. While the medical community has made many advances over the years in developing treatments and better diagnostic tools, little progress has been made in understanding why some children become autistic.

Mr. Waxman: ''Autism is a particularly frustrating disease. We still do not understand what causes it and we still do not have a cure. All we know for sure is that its impact on families can be devastating. During the hearings held in this committee, we have heard parents tell tragic stories of children who appear to be developing normally and then all of a sudden retreat into themselves, stop communicating, and develop autistic behavior. Other parents have testified that their children never start to develop language skills, and instead early on manifest symptoms of autism. I can only imagine how frustrating and difficult this must be for families. And I appreciate how urgently we need to understand what causes autism, how to treat it, and if possible, how to prevent it.''

A summary of the developing theories on the causes of autism, as described in ''Autism & Vaccines: A New Look At An Old Story'' by Barbara Loe Fisher is paraphrased below:

In 1943, when child psychiatrist Leo Kanner first described 11 cases of a new mental illness in children he said was distinguished by self-absorbed detachment from other people and repetitive and bizarre behavior, he used the word ''autistic'' (from the Greek word auto, meaning ''self.'') Pointing out similarities with some behaviors exhibited by adult schizophrenics, Kanner and other psychiatrists assumed autistic children were exhibiting early-onset adult-type psychoses. Kanner's young patients came from well-educated middle and upper class families in Baltimore with mothers and fathers who were doctors, lawyers and professors. In 1954, Kanner said, ''We have not encountered any one autistic child who came of unintelligent parents.'' This concentration of autistic children in educated and professionally successful families led Kanner to develop the ''refrigerator Mom'' theory as the cause of autism, theorizing that the warm maternal instincts of educated working mothers was absent or diminished. Influenced by Kanner, pediatricians for decades were persuaded to blame mothers of autistic children for being cold and emotionally rejecting, causing the children in turn to coldly reject contact with other people.

By 1954, Kanner began modifying his ''Blame the Mother'' position in light of evidence that brothers and sisters of autistic children were often well-adjusted, high functioning children. These findings suggested that the development of autism was also a result of genetic or ''constitutional inadequacies'' as well as bad parenting. In 1971, Kanner admitted that Mothers were not to blame. However, psychoanalyst Bruno Bettleheim continued purporting the ''rejecting parent'' theme. Bettleheim, a holocaust death-camp survivor, insisted that the autistic child was behaving in abnormal ways in retaliation against a rejecting mother who had traumatized the child by failing to provide enough love or attention.

However, a California psychologist and father of an autistic child, Bernard Rimland, Ph.D., in 1964 disproved Dr. Bettleheim's theories through the publication of his landmark book Infantile Autism: The Syndrome and Its Implications for a Neural Theory of Behavior. In this book, Dr. Rimland methodically dismantled the psychoanalytic theory of autism and argued for a biological, specifically a neurological, basis for autistic behavior. Dr. Rimland documented the similarities between brain injured children and autistic children, liberating parents from the destructive guilt associated with having an autistic child and pointing autism research in the direction of investigating the biological mechanisms underlying the brain and immune dysfunction symptoms and their possible causes.

In 1965, Dr. Rimland established the Autism Society of America (ASA). In 1967 he established the Autism Research Institute (ARI) and began distributing a questionnaire to parents of autistic children. Some 36 years later, his databank includes information on more than 30,000 cases of autism from around the world. In analyzing the data for age of onset of autism, he discovered that before the early 1980's, most of the parents reported their children first showed signs of abnormal behavior from birth or in the first year of life. But after the mid-1980's, there was a reversal of this pattern. The numbers of parents reporting that their children developed normally in the first year and a half of life and then suddenly became autistic doubled. Today, Rimland says that the onset-at-18-months children outnumber the onset-at-birth children by 2 to 1.

Today, no one can pinpoint the exact cause or causes of autism. Nor is there any conclusive explanation for the rapid growth in cases of late-onset autism. Most experts believe that some combination of genetic and environmental factors must be at work. A leading and prominent theory is that the growing amount of mercury in childhood vaccines may have triggered an autistic response in children who are genetically predisposed to being vulnerable to mercury damage.

B. The alarming growth in autism coincided with an increase in the number of childhood vaccines containing thimerosal on the recommended schedule

Through most of the twentieth century, individuals were required to receive very few vaccines. However, with the licensing of the Hepatitis B (Hep B) vaccine and the Haemophilus Influenzae Type b (Hib) vaccine starting in the mid-to-late 1980's, and their subsequent recommendation for universal use in 1991, the amount of mercury to which infants were exposed rose dramatically. It was during this period of increased exposure to thimerosal and its ethylmercury component that the growing wave of late-onset autism became apparent. This confluence of events led many to suspect a correlation between the two and call for more research into the relationship between ethylmercury in vaccines and autism spectrum disorders.

A number of vaccines never contained thimerosal. These classes of vaccines are generally live-virus vaccines. The ethylmercury in thimerosal would kill the living virus, making it unsuitable for such vaccines. These shots include the Measles-Mumps-Rubella (MMR) vaccine, the oral polio vaccines (which are no longer recommended for use in the United States), and the chicken pox (varicella zoster) vaccines.

Prior to the approval of the recombinant Hepatitis B vaccine in 1986, the only vaccine containing thimerosal routinely given to infants was the DTP vaccine. DTP contained 25 micrograms of ethylmercury and was given 3 times in the first six months of life (75 micrograms of ethylmercury) and a total of four times in two years (100 micrograms of ethylmercury).

The polysaccaride Haemophulus Influenzae B (Hib) vaccine was first licensed in 1985. It had 25 micrograms of ethylmercury and was given 3 times in the first six months of life (75 micrograms of ethylmercury) and a total of four times in the first two years of life.

The approval of the Hep B vaccine in 1986 added another thimerosal-containing shot to the recommended schedule. This vaccine contained 12.5 micrograms of ethylmercury and was given within hours of birth and a total of 3 times in the first six months of life (37.5 micrograms of ethylmercury).

After 1986, some children went from getting 25 micrograms in one day or 75 micrograms in the first six months of life to getting 62.5 micrograms of ethylmercury in a day or 187.5 micrograms in the first six months of life. This would be in addition to any fetal exposure to mercury from the mother. In 1991, the CDC recommended that both Hib and Hep B be added to the universal recommendations for childhood immunization.

As was noted previously, the effects of ethylmercury have not been studied as carefully as methylmercury, and the Federal Government has not established safety thresholds for ethylmercury exposure. Because of the obvious similarities between the two, however, when the FDA reviewed the amount of injected ethylmercury in vaccines in 1999, they compared it to the Federal limits for (ingested) methylmercury exposure. They were compelled to admit at that point that the cumulative amount of ethylmercury in vaccines exceeded the EPA's threshold for exposure to methylmercury. This led the

FDA to recommend the removal of thimerosal from most pediatric vaccines in 1999, more than a decade after the Hepatitis B vaccine was added to the schedule.

In point of fact, the potential problem was worse than the FDA suggested. Not only did the cumulative amount of ethylmercury on the routine schedule exceed the EPA's limit, the amount of ethylmercury in each individual shot of DTP (or DTaP) and Hepatitis B exceeded the limit. Young children were getting three boosters of each shot. The EPA's threshold is 0.1 micrograms of methylmercury for each kilogram of body weight. This does not mean that injury would definitely occur above this level because a significant safety margin is built in. However, the chances of injury increase as the exposure rises above this level. For an 11–pound baby (five kilograms), the threshold would be roughly 0.5 micrograms. For a 22–pound baby (ten kilograms), the threshold would be 1 microgram. The DTP (and DTaP) vaccine contained 25 micrograms of thimerosal per dose, as does the Hepatitis B vaccine. The Hib vaccine contained 12.5 micrograms per dose. In addition, it is clear that for many, many children, the amount of thimerosal they received in vaccines in the 1990's also exceeded the FDA's higher threshold of 0.4 micrograms per kilogram of body weight.

Of particular concern to many parents are those instances in which children received several vaccines in one visit to their pediatrician. This practice has become commonplace with the new vaccine schedules recommending 26 doses of vaccines before school attendance.

Chairman Burton spoke about one such incident at a recent hearing: ''The FDA recently acknowledged that in the first 6 months of life children get more mercury than is considered safe by the EPA. The truth is that sometimes kids go to their doctor's office and get four or five vaccines at the same time. My grandson received vaccines for nine different diseases in 1 day. He may have been exposed to 62.5 micrograms of mercury in 1 day through his vaccines. According to his weight, the maximum safe level of mercury he should have been exposed to in 1 day is 1.5 micrograms, so that is 41 times the amount at which harm can be caused.

When testifying before the Committee, Mrs. Lynn Redwood made the following observation regarding her son's bolus exposure to mercury through vaccinations: ''According to the EPA criteria, his allowable dose was only 0.5 micrograms based on his weight. He had received 125 times his allowable exposure on that day. The large injected bolus exposures continued at two months, four months, 12 months, and 18 months to a total mercury exposure of 237.5 micrograms. I also discovered that the injections that I received during my pregnancy, the first and third trimesters, and hours after the delivery of my son to prevent RH blood incompatibility disease also contained mercury.''

Concern that autism may be linked to vaccines is not a new debate. Twelve years ago, the Institute of Medicine was asked to evaluate the science on a possible connection. The Institute of Medicine published Adverse Effects of Pertussis and Rubella Vaccines and confirmed that pertussis and rubella vaccines can cause brain and immune system damage. At the time, an increasing number of parents reported that their previously normal children were regressing into autism after DTP or MMR vaccination. However, the IOM physician committee charged with analyzing the medical literature for evidence of cause and effect, rejected the reported link between pertussis vaccine and autism, because 'no data were identified [in the medical literature] that address the question of a relation between vaccination with DTP or its pertussis component and autism.'

Dr. Stephanie Cave, who provided testimony to the Committee, is a doctor in Baton Rouge, Louisiana whose medical practice is focused on treating children with the symptoms of autism. She concurs with other experts from whom the Committee received testimony that there appears to be a correlation between increased use of vaccines containing thimerosal and a rise in autism:

''I believe that the introduction of the hepatitis B vaccine in 1991 has sparked this recent epidemic because of thimerosal. When added to the mercury imparted through the DTP and HIB, the exposure to mercury exceeds EPA safe limits for the metal if you consider a bolus dose on a single day.

''The EPA limits are usually related to ingested mercury, which is partially cleared by the liver. Injecting boluses of ethylmercury presents an entirely different, another scenario. The 2–month dose of mercury is at least 30 times higher than the recommended daily maximum exposure set by the EPA. During the 1990's, infants received 12.5 micrograms of mercury at birth, followed by 12.5 micrograms at 1 month, 62.5 micrograms at 2 months, 50 micrograms at 4 months, 50 micrograms at 6 months, 50 micrograms at 15 to 18 months; a total of 237.5 micrograms for a child who at best weighs 10 kilograms. This far exceeds the safety limits if you consider bolus dosing. Safety limits would be more like 1 to 1.5 micrograms.

''The bile production is minimal in infancy, making it more difficult for metals to be cleared from the body. When added to a vaccine, the metals are even more dangerous because the vaccines trigger immune reactions that increase the permeability of the GI tract and the blood/brain barrier.

''The injection of mercury appears to affect only certain children, but I fear that we've underestimated the devastation by concentrating only on the autistic children. We're measuring elevated levels of mercury in other children with milder difficulties like learning disabilities, ADHD, Asperger's Syndrome and many others. We do not have any idea what the scope of this problem is at this point. And there are no safety standards for infants getting bolus doses of ethylmercury.''

V. VALID CONCERNS ABOUT MERCURY IN VACCINES WERE IGNORED BY FEDERAL POLICYMAKERS AND VACCINE MANUFACTURERS FOR DECADES

As early as 1931, scientists were noting adverse reactions to thimerosal. In fact, Dr. Kharasch filed a new patent application because he reformulated the product to ''stabilize merthiolate due to its tendency to acquire 'certain burning qualities'.''

In 1932, in a paper published by Lilly researchers who found Merthiolate to be a skin-disinfecting agent, it was noted that another researcher has seen adverse reactions. ''Reimann has reported that some individuals display a sensitiveness to thio [thimerosal] compounds, which is characterized by reddening of the treated area and the appearance of small papules and vesicles.''

In 1935, in a letter from the Director of Biological Services, of the Pittman-Moore Company to Dr. Jamieson of Eli Lilly, ''we have obtained marked local reaction in about 50 percent of the dogs injected with serum containing dilutions of Merthiolate varying from 1 in 40,000 to 1 in 5,000 . . . no connection between the lot of serum and the reaction. In other words, Merthiolate is unsatisfactory as a preservative for serum intended for use on dogs . . . I might say that we have tested Merthiolate on humans and find that it gives a more marked local reaction than does phenol and tricresol.''

In 1942, an Army doctor in Baltimore, Maryland published a journal paper in which he raised concerns about thimerosal: ''Some investigators claim that if a patient's skin is sensitive to one of the mercurials he may be sensitive to any compound containing mercury. We have investigated 5 patients with dermatitis due to Merthiolate and found that four were sensitive to Merthiolate and not to any other organic or inorganic mercury compounds with which they were tested . . . Sulzberger found that in performing routine patch tests with 10 percent ammoniated mercury ointment and 10 percent salicylic acid ointment he obtained relatively few positive reactions; but if the two ointments were combined so that the concentration was five percent of each, then 50 percent of all patients tested gave positive reactions.'' Dr. Elliss further explained in his paper, ''Dr. J. H. Mitchell in a lecture before the American Academy of Dermatology in New York in December 1941, stated that he had observed a number of cases of severe dermatitis following the treatment of dermatophytosis with preparations of Merthiolate.''

In 1943, Dr. Elliss published a case report in the Archives of Opthalmology, which states:

''The positive results of patch tests demonstrated that the two patients were sensitive to tincture of merthiolate were also sensitive to 1:5000 merthiolate ophthalmic ointment and that merthiolate is capable of causing an inflammation of the mucous membrane in patients who are sensitive to the drug. In view of these facts it is recommended: 1. That Merthiolate ophthalmic ointment should not be used in or about the eye unless it has been previously demonstrated by patch tests that the patient is not sensitive to the ointment. 2. That the package should be labeled to warn the consumer that such tests should be made previous to the use of merthiolate ophthalmic ointment in or about the eye. Since a patient may become sensitized to Merthiolate while using the ophthalmic ointment, it may be advisable to withdraw this product from the market before a case of permanent ocular damage occurs, in spite of the fact that no cases of ocular injury due to merthiolate have been reported.''

Taken from an October 1978, letter from William R. Gibson to Dr. Alan Baskett, of the Commonwealth Laboratories in Victoria Australia regarding a concern that thimerosal in the Australian pertussis vaccine was linked to intersucception in mice:

''I discussed the possible effect of ethylmercury with Bordetella pertussis to supplement B-adrenergic blockade. Again, it was not believed that this blockade should predispose toward intessusception, although it was recognized that increased motility resulted and that this could be causative. As with other chemicals of its generation, data relating to its safety and pharmacological effects in animal models are sparse.''

In August of 1998, an FDA internal ''Point Paper'' was prepared for the Maternal Immunization Working Group. This document, prepared almost a full year before the Public Health Service—American Academy of Pediatrics joint statement made the following recommendation:

''For investigational vaccines indicated for maternal immunization, the use of single dose vials should be required to avoid the need of preservative in multi-dose vials . . . Of concern here is the potential neurotoxic effect of mercury especially when considering cumulative doses of this component in early infancy . . .''

On September 8, 1998, the Safety Working Party of the European Agency for the Evaluation of Medicinal Products issued its working paper, ''Assessment of the Toxicity of Thimerosal in Relation to Its Use in Medicinal Products.'' The Working Party concluded:

''There is ample evidence from the literature that thiomersal (thimerosal) may cause sensitization and subsequent allergic reactions . . . the use of thimerosal is vaccines given to infants in accordance with various national vaccine programs may in certain cases result in approximately two times higher intake of ethylmercury during the first year of life than what can be considered reasonably safe. Given the great uncertainty of the estimations of safe levels in young children, it is suggested to restrict the use of thimerosal in vaccines.''

In June of 2000, the CDC convened a closed meeting to discuss research evidence that showed a connection between thimerosal in vaccines and neurological injury. Dr. Thomas Verstraeten, a CDC employee who has since left the agency to work in Belgium for a vaccine manufacturer, utilized the Vaccine Safety Datalink to evaluate any possible connection between thimerosal-preserved vaccines and neurological or renal impairment. He found, ''a statistically significant positive correlation between the cumulative exposure at 2 months and unspecified developmental delay; the cumulative exposure at 3 months and tics; the cumulative exposure at 6 months and attention deficit disorder . . . 1, 3 and 6 months and language and speech delay . . . 1, 3, and 6 months of age and neurodevelopmental delays in general.''

He concludes:

''This analysis suggests that in our study population, the risks of tics, ADD, language and speech delays, and developmental delays in general may be increased by exposures to mercury from thimerosal-containing vaccines during the first six months of life.''

This issue will be discussed in more detail in another section of this report.

The Committee and the public have been frustrated by the Department of Health and Human Services reluctance to accept that all forms of mercury are toxic and that children have likely been harmed from the FDA's negligence in assuring the safety of thimerosal and in not monitoring the increased exposure to mercury through vaccines.

During the July of 2000 hearing on mercury, Congresswoman Helen Chenoweth-Hage (R–ID) eloquently expressed the views of many.

Mrs. Chenoweth-Hage:

''. . . I have a staffer who is in the Navy Reserve right now, but he used to be active with the airborne divisions, and he was in for a test in one of the medical military hospitals, and upon taking his temperature, they broke a thermometer, and mercury splattered across his glasses and some got in his eye. Well, the first thing they did was cutoff his clothes. The second thing was call in OSHA to clean up the mercury. And then they worked on him to make sure his eyes were irrigated, and you guys, you witnesses, absolutely amaze me. I wonder where the disconnect is, for Pete's sake.

''You listened to the testimony just as I did, and you are willing to, with a straight face, tell us that you are eventually going to phase this out after we know that a small baby's body is slammed with 62 times the amount of mercury that it is supposed to have, and OSHA reacts like they did in the case of this accident of this naval man. It doesn't make sense. No wonder people are losing faith in their government. And to have one of the witnesses tell us it is because mothers eat too much fish? Come on. We expect you to get real. We heard devastating testimony in this hearing today, and we heard it last April. And this is the kind of response we get from our government agencies?

I am sorry. When I was a little girl, my daddy talked to me about something about a duck test. I would ask each one of you to read this very excellent work by Sallie Bernard and Albert Enayati, who testified here today. My daddy used to say if it walks like a duck and talks like a duck and sounds like a duck, for Pete's sake it is a duck.

''I recommend that you read this, side-by-side, page after page of analysis of the symptoms of people who are affected with mercury poisoning compared to autism, this is the duck test, and you folks are trying to tell us that you can't take this off the market when 8,000 children are going to be injected tomorrow; 80 children may be coming down, beginning tomorrow, with autism? What if there was an E. coli scare? What if there was a problem with an automobile? The recall would be like that.

''We are asking you to do more than analyze it. We are asking you to tell this body and the American people that it is more inconclusive. It passes the duck test, and we need you to respond. We need that to come off the market now because you think that this is—do you think that we are elevating the case today? Just wait until it gets in the courts. This case could dwarf the tobacco case. And we would expect you to do something now before that circus starts taking place. Denial is not proper right now.

''You know, I still go back to the fact—I still want to talk about the duck test. Mr. Egan, [FDA] I will address this to you. You know, it was shown in the last panel that autistic symptoms emerge after vaccination. It was shown that vaccines contain toxic doses of mercury. It was shown that autism and mercury poisoning, the physiological comparison is striking. There is altered neurotransmitter activity, abnormal brain neuronal organization, immune system disturbance, EEG abnormalities. It goes on and on and on, the comparisons. That is why I say, I back up what the Chairman and the ranking member are all asking you, that we cannot wait until 2001 to have this pulled off.

''You know, if a jury were to look at this, the circumstantial evidence would be overwhelming. Let's do something before we see it in the courts.''

In 2003, thimerosal remains in some vaccines.

A. Many parents of autistic children believe that adverse reactions to vaccines are responsible for their children's condition

Based on their personal experiences, many parents believe that the autistic condition of their children is related to an adverse reaction to a childhood vaccine, or a series of vaccinations. This is particularly true of parents of children who have developed ''late onset autism,'' in which symptoms do not begin to emerge until the child is between one and two years old. This time period coincides with a number of vaccinations on the childhood schedule. While this belief is not universal, many parents hold it passionately.

Dr. Jeffrey Bradstreet, when testifying before the Committee in 2001, made the following statement:

''At a recent autism conference in Chicago, and prior to either my own presentation or that of Dr. Wakefield, I asked the audience of 500 parents if they felt their child regressed following a vaccine. In that obviously non-scientific survey, approximately 90 percent the parents raised their hands to affirm vaccines were what they suspected had caused their child's symptoms. When I asked for how many had reported the event under the VAERS system, fewer than 15 said they had. Then I asked if their pediatrician had offered to report this, they just laughed. I have now conducted this simple survey with over 5000 parents at conferences around the world with similar findings. Yes, media attention creates bias. But despite the informal nature of this survey, it does tell us something about this debate we are currently engaged in: (1) parents of children with autism suspect vaccines damaged their child, (2) parents are not reporting this using VAERS forms, (3) pediatricians are not reporting to VAERS either, (4) and despite efforts by policymakers at CDC, FDA, AAP, IOM and elsewhere to reassure parents of the safety of vaccines, they remain unconvinced.''

The Committee has heard moving testimony from parents in support of this belief, as well as from parent-advocates. Shelley Reynolds is a mother of two from Baton Rouge, Louisiana. When she testified before the Committee in April of 2000, her autistic son, Liam, was four years old. Her testimony left no doubt as to her views:

''Liam was a normally developing baby until June 27, 1997, when he received his MMR and Hib vaccines. He did everything he was supposed to do. He cooed, rolled over, crept, crawled, pulled up and walked on time. He said 'Mama,' he said 'Daddy,' he said 'Love you.' He learned how to sing 'Itsy Bitsy Spider.' He played finger games with us. He loved to interact, and he especially loved to show off for his grandparents.''

* * * * *

''But when he was 17 months old, shortly after he had received the shots, he started exhibiting some different behaviors. He was constantly taking off his shoes; he screamed if we dressed or undressed him; he would stare for hours in front of the television and would not move if you blocked the view. He could not tolerate playing in the sandbox anymore. He did not want to sing any of his favorite songs; he would cover his ears and scream 'No.'''

* * * * *

''In Liam's case, we have no doubt that he developed his autism as a direct result of an adverse vaccine reaction.''

* * * * *

''Many in the medical community continue to dismiss this as mere happenstance because autism often coincides with the time of vaccination, and state that there is no scientific evidence to back this up. My question to you is: How long does it take for a coincidence to surface time and time and time again, case after case after case, before it can become a viable hypothesis, especially when the solution to solving the problem seems so apparent?''

At the same hearing, the Committee heard testimony from Jeana Smith of Denham Springs, Louisiana. At the time, she was the mother of five-year-old twins, one of whom was autistic. Her testimony made equally clear her conviction that her son's autism was related to a series of vaccinations given on the same day:

''Jacob met every developmental milestone that first year, right along with Jesse. They were two little peas in a pod and went everywhere together. At only 16 months of age, Jacob and Jesse received their first MMR vaccine. On this same day, they also received their fourth DTP, their fourth Hib, and their third hepatitis B. The following 24 hours, both twins slept most of the time, with over 100-degree temperatures, in spite of receiving the recommended Tylenol dosage every 6 hours. Immediately following that, Jacob began exhibiting strange behaviors. He was no longer excited or responsive when Daddy would come home from work. He began to become preoccupied with certain toys. He would spend long periods of time studying the way their wheels would spin or whether or not they were lined up just right. Any attempt to interrupt or distract him was met with great resistance and an eventual fit.

During this time, Jesse continued to progress, starting to talk and interact with all the children around him.''

* * * * *

''At times, Jacob was so withdrawn that we could absolutely not reach him.''

* * * * *

''For us, there is no denying that in Jacob's case of autism, the answer does not lie in genetics, but in a catalyst. The thousands of hours of research that we have spent searching and retracing his regression continue to point to the fact that the road of Jacob's autism began when his immune system was damaged by the hepatitis B vaccine he received when he was ill. The final blow was the adverse reaction to the host of vaccines he received 16 months later. We are certain that for Jacob, the catalyst was his vaccine.''

Testifying two years later, on April 18, 2002, Autism Society of America President Lee Grossman testified about the strongly held views of many of the Society's members:

''A substantial number of families within our autism community believe some forms of autism may be caused by some use of vaccines. While we do not know this to be specifically proved at this time, we should not ignore the body of evidence that calls into question the source of many children with autism. If causation is found, those injured must be provided recourse and compensation.''

* * * * *

''I think the stories that I have heard that many of our members tell, that many of these people in the audience will tell you, is that they believe that there is evidence that there is a direct linkage, a direct causation of vaccines causing their child's autism. I think it is imperative for us, the advocates in the room, for ASA, and for Congress, for the lay public, to stand together to get this question answered, answered immediately.''

B. Many parents of autistic children have filed petitions for compensation or lawsuits against vaccine manufacturers

Not surprisingly, suspicions that there may be a causal relationship between some vaccines and autism have spawned a significant amount of litigation.

As of October 2002, more than 875 families had filed petitions for compensation under the Federal Vaccine Injury Compensation Program (VICP), alleging that a vaccine or a series of vaccines caused their child's autism. It has been estimated that as many as 3,000 to 5,000 such petitions may be filed in the near future.

Congress established the VICP in 1987 to provide compensation to families of individuals who suffer vaccine injuries. The Federal government maintains a trust fund out of which awards are paid and which is funded by an excise tax on vaccines. Petitions for compensation are adjudicated before a team of special masters, with the Justice Department representing the Federal government.

With the knowledge that the growing number of petitions seeking compensation for autism spectrum disorders poses a difficult challenge for the VICP, the Chief Special Master laid out a special two-part procedure for resolving these claims. First, a general causation inquiry known as the ''Omnibus Autism Proceeding'' will be conducted to determine generally if vaccines can cause autism disorders, and if so, under what circumstances. The two-year schedule for completing this omnibus proceeding includes a discovery period for establishing an evidentiary record, testimony of expert witnesses, an evidentiary hearing, and a ruling on general causation issues by July of 2004. In the second part of the two-part procedure, the Special Master's determination in the omnibus proceeding will be applied to individual cases.

Thus far, there are two primary contentions underlying all of the autism cases filed in the VICP. The first is that the MMR vaccine has caused autism in some children. The second alleges that the mercury contained in several other vaccines caused neurological damage, resulting in autism spectrum disorders. These contentions are summarized in the Master Autism Petition For Vaccine Compensation filed by the families:

''As a direct result of one or more vaccinations covered under the National Vaccine Injury Compensation Program, the vaccine in question has developed a neurodevelopmental disorder, consisting of an 'Autism Spectrum Disorder' or a similar disorder. This disorder was caused by a measles-mumps-rubella (MMR) vaccination; by the 'thimerosal' ingredient in certain Diptheria-Tetanus-Pertussis (DTP), Diphtheria-Tetanus-acellular Pertussis (DTaP), Hepatitis B, and Hemophilus Influenza Type B (HIB) vaccinations; or by some combination of the two [vaccine administrations].''

In addition to petitions filed under the VICP, many parents have filed lawsuits against vaccine manufacturers and manufacturers of thimerosal. The first such lawsuit was filed in Texas in May of 2001 on behalf of five-year-old Joseph Alexander Counter (Counter v. American Home Products). According to his parents and attorneys, he was diagnosed with autism and then was found to have high levels of mercury exposure. Later that year, a group of law firms calling themselves the ''Mercury Vaccine Alliance'' filed class action lawsuits in nine different states.

While dozens of lawsuits have been filed, they generally fall into three different categories:

1. Actions claiming that thimerosal is an adulterant or a contaminant in a vaccine;

2. Actions seeking compensation for loss of consortium (love and companionship) on behalf of parents of autistic children; and

3. Class actions seeking compensation for autistic children and medical monitoring for broad populations of children who were exposed to mercury in vaccines.

Under the National Childhood Vaccine Injury Act, which created the Vaccine Injury Compensation Program, victims of vaccine injuries are not allowed to file lawsuits against vaccine manufacturers unless they have first sought compensation through the VICP. However, one exception allows lawsuits for vaccine injuries allegedly caused by an ''adulterant'' or a ''contaminant'' intentionally added to the vaccine. In twin decisions in May of 2002, a Federal judge ruled that thimerosal could not be considered an adulterant or a contaminant, and claims filed on that basis were dismissed. However, in those same decisions, the court ruled that parents of vaccine-injured children are entitled to seek damages in court for loss of consortium without going through the VICP.

As these cases work their way through the courts, procedural rulings in different jurisdictions will have a great influence on whether potentially thousands of families seek compensation through the courts or through the VICP.

VI. A GROWING NUMBER OF SCIENTISTS AND DOCTORS BELIEVE THAT A RELATIONSHIP BETWEEN THIMEROSAL IN VACCINES AND AUTISM SPECTRUM DISORDERS IS PLAUSIBLE

A. Introduction

A growing number of respected scientists and researchers are convinced that there is a relationship between the use of thimerosal in childhood vaccines and the growing incidence of autism. A number of these scientists have testified before the Committee. At the same time, senior officials from Federal health care agencies and other public health experts continue to insist that there is no evidence of such a relationship.

Two things appear to be clear in this debate. First, concerns about the use of thimerosal in vaccines existed in public health agencies for more than two decades before action was taken to remove them from vaccines. The lethargic response to these legitimate concerns will be discussed in the following section of this report. Second, much more research needs to be done before any conclusive determinations can be made about vaccines and autism spectrum disorders. Developing more and better research data will be critically important to resolving the legal disputes over compensation for children with autism, and restoring the confidence of the American public in vaccines.

This section will review the current state of the scientific debate over vaccines and autism.

B. Institute of Medicine reports call for more research

In 2001, the Institute of Medicine (IOM) released two reports after reviewing the evidence they received related to possible connections between vaccines and autism. The IOM was created by the National Academy of Sciences in 1970 to conduct independent analyses of public policy matters related to health care. The first report dealt with the MMR vaccine. The second dealt with vaccines containing thimerosal. The common thread linking both reports was the conclusion that much more research needed to be done before firm conclusions could be drawn.

In April of 2001, the IOM issued its report on the MMR vaccine, entitled, ''Immunization Safety Review—Measles-Mumps-Rubella Vaccine and Autism.'' After reviewing the available scientific studies, the IOM determined that: ''The evidence favors rejection of a causal relationship at the population level between MMR vaccine and autism spectrum disorders.''

The IOM stated that the epidemiological evidence available at the time showed no association at a population level between the MMR vaccine and autism. However, the authors cautioned that if the vaccine triggered autistic disorders among a small number of children who were predisposed to an adverse reaction, the population studies that had been done to-date would be too imprecise to detect them:

''It is important to recognize the inherent methodological limitations of such studies in establishing causality. Studies may not have sufficient precision to detect very rare occurrences on a population level. A poor understanding of the risk factors and failure to use a standard case definition may also hamper the ability of epidemiological studies to detect rare adverse events.''

The IOM recommended further research to determine if exposure to the MMR vaccine is a risk factor for autism disorders in a small number of children. They also called for targeted studies to follow up on a groundbreaking series of case studies by Dr. Andrew Wakefield of Great Britain, who determined that 12 British children who suffered from autism spectrum disorders and chronic bowel inflammation also had vaccine-strain measles virus in their tissues. Although the parents of eight of the twelve children traced the onset of autistic symptoms to the time period when the MMR vaccination was given, the IOM stated that the study was of limited utility because of its small sample size.''

Six months later, the IOM issued its second report, entitled, ''Immunization Safety Review—Thimerosal-Containing Vaccines

and Neurodevelopmental Disorders.'' They found insufficient evidence to accept or reject a connection between thimerosal in vaccines and autism. They did, however, state that such a connection is ''biologically plausible,'' and recommended much more research on the issue.

The report summarized:

''The committee concludes that although the hypothesis that exposure to thimerosal-containing vaccines could be associated with neurodevelopmental disorders is not established and rests on indirect and incomplete information, primarily from analogies with methylmercury and levels of maximum mercury exposure from vaccines given in children, the hypothesis is biologically plausible.''

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''The committee concludes that the evidence is inadequate to accept or reject a causal relationship between exposure to thimerosal from vaccines and the neurodevelopmental disorders of autism, ADHD, and speech or language delay.''

The IOM noted that it had reviewed the results of one unpublished epidemiological study that detected a ''statistically significant but weak association'' between exposure to thimerosal-containing vaccines and several types of developmental disorders, including attention deficit disorder, speech and language delay, tics, and general neurodevelopmental delays. Phase I of the study, which was performed with data from the CDC's Vaccine Safety Datalink, (VSD) uncovered the aforementioned associations.

Phase II of the study, which provided enough data to analyze only speech delays and attention deficit disorder, did not detect an association between those disorders and thimerosal, as had Phase I. After being briefed on both phases of the study, the IOM's Immunization Safety Review Committee agreed that they were inconclusive. The ''VSD Study'' is discussed at greater length in Section VII.

The IOM also noted with some discomfort that thimerosal had not been removed from all vaccines and medicines given to children and pregnant women. The report specifically cited the influenza vaccine, the diphtheria-tetanus toxoid vaccine, and some nasal sprays. They urged that, ''full consideration be given by appropriate professional societies and government agencies to removing thimerosal from vaccines administered to infants, children or pregnant women in the United States.'' It was also recommended that any remaining stocks of childhood vaccines containing mercury be removed from doctor's offices and replaced with mercury-free alternatives.

Finally, the report recommended that numerous types of research be conducted to help the scientific community better determine if there is a causal relationship between thimerosal and autism or other disorders. The IOM called for:

Case-control studies examining the potential link between neurodevelopmental disorders and thimerosal-containing vaccines;

Further analysis of cohorts of children who did not receive thimerosal-containing doses of vaccines during clinical trials;

Epidemiological studies comparing the prevalence of neurological disorders in children, who received vaccines before thimerosal was removed, to children who received vaccines after it was removed;

An increased effort to identify the primary sources and levels of prenatal and postnatal exposure to thimerosal;

Clinical research on how children metabolize and excrete metals;

Theoretical modeling of ethylmercury exposures, including the incremental burden of thimerosal on background mercury exposures from other sources;

Research in appropriate animal models on neurodevelopmental effects of ethylmercury;

Rigorous scientific investigations of chelation as a treatment for neurodevelopmental disorders; and

Research to identify a safe, effective and inexpensive alternative to thimerosal for countries that decide they want to follow the example of Europe and the United States and terminate its use in vaccines.

C. A growing number of researchers believe that there may be a relationship between vaccines and autism spectrum disorders

A growing number of researchers and medical professionals believe that there may be a link between the mercury preservative used in vaccines and autism spectrum disorders and other neurodevelopmental disorders. Few, if any, would make such a statement categorically until more research is done. However, judging by testimony received by the Committee, many researchers believe that this hypothesis is plausible based on work they have done to-date. They believe that this is a promising field of research that may yield breakthroughs on the question of the underlying causes of the growing incidence of autism and other neurodevelopmental disorders.

On April 25, 2001, the Committee heard testimony from Dr. Boyd E. Haley, who is the Chairman of the Chemistry Department at the University of Kentucky. Dr. Haley has spent many years studying the effects of mercury on the human body. Dr. Haley summarized his views in this way:

''I cannot say, nor would I say, that vaccinations cause autism. However, if the data holds up that I have been seeing with the relationship, I think it is an awfully good suspect, at least one of the co-factors that might aid in the onset of this disease. So I would really recommend and encourage you to put some pressure on the National Institutes of Health (NIH) to look at the contribution of different forms of mercury we put in our medicines and in our dentistry to see what effect they have on the neurological health of Americans.''

In his testimony, Dr. Haley described his laboratory research on thimerosal:

''I was requested to do an evaluation of the potential toxicity of vaccines containing thimerosal as a ''preservative'' versus those vaccines not containing thimerosal. The results were very dramatic as shown in the accompanying Table attached to this document. In our preliminary studies, vaccines containing thimerosal as a preservative consistently demonstrated in-vitro toxicity that was dramatically greater than the non-thimerosal or low-thimerosal containing vaccines.''

* * * * *

''Our results are very consistent with the reported toxicity of thimerosal-containing vaccines versus non-thimerosal containing vaccines as observed in cell culture studies reported in 1986. The chemical rationale for the neurotoxicity of thimerosal is that this compound would release ethyl-mercury as one of its breakdown products. Ethyl-mercury is a well-known neurotoxin. Further, combining thimerosal with millimolar levels of aluminum cation plus significant levels of formaldehyde, also found in these vaccines, would make the vaccine mixture of even greater risk as a neurotoxic mixture.''

Dr. Haley went on to state that infants are more susceptible to damage from mercury, because the defense mechanisms in their bodies are less well developed:

''Infants, with their immature physiology and metabolism, would not be expected to handle mercury as efficiently as mature adults.''

* * * * *

''Using this vaccine mixture on infants, who do not have fully developed bilary (liver) and renal (kidney) systems, could dramatically increase the toxic effects, especially if they are spuriously ill. The toxic effects of exposure to thimerosal in infants cannot be reasonably compared to those observed in adults made toxic by exposure to similar ethyl-mercury containing compounds. Mercury is primarily removed through the bilary system and aluminum is removed by the renal system. Inability to rid the body of these toxicants would greatly increase the damage they are capable of doing in infants.''

Dr. Haley's concerns about the inability of infants to fend off the adverse effects of mercury were echoed by Dr. David Baskin. Dr. Baskin is a neurosurgeon and a professor of neurosurgery and anesthesiology at Baylor College of Medicine. He has been involved in extensive research on the central nervous system and serves on scientific advisory boards of the National Institutes of Health. Testifying before the Committee in December of 2002, Dr. Baskin said:

''We clearly know infants' brains are more sensitive. We know the blood-brain barrier, the barrier to drugs between the blood and the brain, is virtually gone in infants.''

Virtually all researchers who have testified before the committee have hypothesized that some children must have a genetic predisposition that makes them more vulnerable to neurological damage from mercury. An exchange between Congressman Burton and Dr. Baskin at the December 10, 2002, hearing reflected this emerging consensus:

Mr. Burton: ''Do you personally believe from your studies that the mercury is a contributing factor to the cases of autism we have in this country?

Dr. Baskin: ''Yes.''

Mr. Burton: ''Do you think it's a large contributing factor, or do you have any percentages? I mean, I know this is a tough question and everything, but you have done a lot of research.''

Dr. Baskin: ''I think it's hard to look at a percentage. I think that, as NIH is focusing on, there is probably an environment-gene interaction. In other words, a lot of children get the injection and don't become autistic, and so there must be something specific or different about the way a certain subgroup of children are able to handle toxins. . . . I don't think we yet know the answer to that.''

In his testimony the previous year, Dr. Haley of the University of Kentucky described one possible genetic risk factor. He stated that there is a protein in the brain called APO–E that removes dangerous waste materials from the brain. He added that some individuals are born with a variety of this protein that is very efficient at removing mercury, and some individuals are born with a variety of this protein that is very inefficient at removing mercury:

''If you look at the chemistry of the APO–E proteins, this can be reflected in the fact that it is a housekeeping protein that clears the brain of waste materials. If you have APO–E2, you can carry out two atoms of mercury for every atom of APO–E that goes out. If you have APO–E4, you can carry out none.

''He [Dr. Mike Godfrey of New Zealand] took this and looked at autistic children. When he did the screen of autistic children, there was a huge preponderance of them that had APO–E4, indicating that there is a genetic risk factor, which deserves further study. And it does imply that the inability

to detoxify the cerebral spinal fluid may be at least part of the neurological aspect of this disease.''

Dr. Baskin described research he is conducting which demonstrates what the effects of mercury are when it is not removed from brain tissue:

''Let me turn to some studies that we're doing at Baylor College of Medicine. We have the opportunity to actually grow human frontal cortex cells in cell culture. So these are cells from the front part of the brain that grow in culture. We incubate these cells with thimerosal at various doses, and we use a number of very sophisticated techniques to detect cell death and cell damage.''

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''Here are some pictures from our cell culture experience, and you can see the arrows pointing to those little knobs sticking off the cell. These are the cells committing the suicide program and breaking themselves into tiny little pieces with a very low dose of mercury.''

''Here is a slide where you see a lot of blue cells. This is a blue dye that normal cells don't take up. In order for something to turn blue, the cell has to have holes punched in their membranes. And guess what: At an extraordinarily low dose of thimerosal, most of the cells are blue. It means that this stuff grabs a hold of the membrane and punches holes into it, so that the dye can penetrate, not only into the cytoplasm but into the very center of the cell, the nucleus, where all the DNA exists.''

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''Don't forget, we did this in adult brain cells. Remember that infant brain cells are much more sensitive, so there's a real cause for concern.''

Dr. Baskin testified that other researchers in his field are finding similar results:

''At the recent International Meeting for Autism Research at the Society for Neuroscience, a number of investigators around the world are finding similar things. At Columbia University, there's now a model in mice who were injected with low doses of thimerosal very similar to what's given in human vaccines. These mice develop neurological deficits that look like autism, and when you take their brains out and you analyze them, they have the same type of brain damage.''

D. Public health officials continue to defend the use of thimerosal in vaccines

Public health officials continue to resist the idea that thimerosal may have contributed to the growth in autism spectrum disorders. In public statements as recently as December of 2002, Federal officials have continued to defend the use of thimerosal, despite the fact that:

They asked vaccine manufacturers to remove thimerosal from childhood vaccines more than three years ago;

In the 1990's, they acknowledged that many children received a cumulative amount of ethylmercury in vaccines that exceeded the EPA's safe limits for methylmercury;

One Federally sponsored study showed an association between thimerosal in vaccines and some developmental disorders.

On April 18, 2002, the Committee heard testimony from Melinda Wharton, Director of the Epidemiology and Surveillance Division of the CDC's National Immunization Program. Her response to a question about mercury in vaccines hinted at the skeptical attitude that prevails at the CDC and the FDA:

''As far as the thimerosal issue is concerned, the evidence is too incomplete and fragmentary to make any decisions about causation. Of course, many substances are known to be dangerous when administered in high concentrations, but the additives that are included in vaccines are present in trace amounts, and even when multiple vaccines are given, these are still very small amounts of products. It is not established even that thimerosal is associated with any harm as a vaccine additive.

''That said, we have committed a large amount of staff time and funding to try to further elaborate these issues and have designed a whole series of studies that have been described in our written testimony that we believe will help address these issues.''

She further stated:

''There are not data to—there are no established harms associated with this. I know this is a subject of great concern, and a number of studies are underway, but we do not have data that support known hazards associated with thimerosal contained in vaccines at this point.''

Later in 2002, Dr. Karen Midthun, Director of the FDA's Office of Vaccines Research and Review, expressed almost identical views:

''Our review showed no evidence of harm caused by thimerosal used as a preservative in vaccines except for local hypersensitivity reactions.''

* * * * *

''To date, the existing data do not demonstrate a causal relationship between vaccines and autism. Nonetheless, I want to assure this committee, the public, and especially parents, that the FDA continues to take these issues seriously.''

In her testimony, Dr. Midthun attempted to downplay the extent to which the exposure to ethylmercury from vaccines in the 1990s exceeded the EPA's threshold for methylmercury exposure:

''During the first 6 months of life, cumulative exposure to mercury could have exceeded the more conservative limits of the EPA in some cases, depending on the specific vaccine formulations used and the weight of the infant.''

There is no question that the cumulative amount of ethylmercury on the recommended schedule of childhood vaccinations exceeded the EPA's threshold for methylmercury. In fact, there is little doubt that the amount of ethylmercury in individual vaccines exceeded the threshold. The EPA's threshold is 0.1 micrograms per kilogram of body weight. For an eleven-pound baby, the EPA's safe threshold would be 0.5 micrograms. Although thimerosal has been removed from these vaccines today in the United States, in the 1990's, Aventis Pasteur's DTaP vaccine contained 25 micrograms of thimerosal. GlaxoSmithKline's Hepatitis B vaccine contained 12.5 micrograms of thimerosal. Wyeth Lederle's Hib vaccine contained 25 micrograms of thimerosal.

Dr. Midthun's carefully couched statement suggested that there were many instances in which U.S. infants were exposed to cumulative levels of ethylmercury from their vaccines that were significantly lower than the EPA threshold for methylmercury. In the 1990's, at least, this does not appear to have been the case. It is clear that the DTaP, Hepatitis B and Hib vaccines exceeded the EPA's threshold individually for almost all infants, without even considering cumulative amounts. In fact, as will be discussed in the next section of this report, the amount of ethylmercury in these vaccines also exceeded the FDA's higher threshold of 0.4 micrograms per kilogram for most babies.

One vaccine policymaker, who was at least partially swayed by the Faroe Islands studies and other evidence, was Dr. Neal Halsey, Director of the Institute of Vaccine Safety at Johns Hopkins University. Dr. Halsey was an influential member of Federal advisory committees that oversaw the expansion of the Federally recommended schedule of childhood vaccines in the 1990s. By all accounts, Dr. Halsey was instrumental in the decision to seek the removal of Thimerosal from childhood vaccines in 1999.

In contrast to Dr. Midthun's statements, Dr. Halsey told the New York Times that he was astonished when he reviewed an FDA analysis of how much mercury was in vaccines being given to children:

''My first reaction was simply disbelief, which was the reaction of almost everybody involved in vaccines. In most vaccine containers, thimerosal is listed as a mercury derivative, a hundredth of a percent. And what I believed, and what everybody else believed, was that it was truly a trace, a biologically-insignificant amount. My honest belief is that if the labels had had the mercury content in micrograms, this would have been uncovered years ago. But the fact is, no one did the calculation.''

''My first concern was that it would harm the credibility of the immunization program. But gradually it came home to me that maybe there was some real risk to the children.''

In a statement released by Johns Hopkins University after the publication of the profile in the New York Times, Dr. Halsey clarified that he still does not believe that there is a connection between thimerosal and autism:

''Neal Halsey, MD, . . . does not and has not supported the belief that thimerosal or vaccines themselves cause autism in children, saying scientific evidence does not suggest any causal association between any vaccine and autism.''

However, Dr. Halsey's statement made it equally clear that he believes that there may be an association between exposures to low levels of mercury and other neurological impairments. His statement referred specifically to the Faroe Islands studies and the calculation that the cumulative amount of thimerosal in childhood vaccines exceeded the EPA's limits for methylmercury:

''In 1999, Dr. Halsey became concerned that the use of thimerosal as a preservative in many vaccines led to some children being exposed to more ethylmercury than was recommended, based on guidelines from the Environmental Protection Agency for exposure to methylmercury, a related product. Recent studies have determined that children who as fetuses were exposed to low to moderate amounts of methylmercury through fish consumed by their mothers were at an increased risk for having mild neurological learning deficiencies. The findings from the studies did not show an association between methylmercury exposure and autism.''

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''As a precaution and in an effort to make vaccines as safe as possible, Dr. Halsey worked with the American Academy of Pediatrics and the Public Health Service in 1999 to urge reductions in exposure to mercury, in all its forms, for infants and children, and to discontinue using thimerosal as a preservative whenever possible.''

E. Research on the effects of thimerosal has been too limited to draw conclusions

To date, very little epidemiological or clinical research has been done on the neurological effects of thimerosal, and particularly its ethyl-mercury component. As the IOM noted in its report on thimerosal, ''the data regarding toxicity of low doses of thimerosal and ethylmercury are very limited,'' and most of the conclusions that have been drawn about ethylmercury are based on analogies to methylmercury, which has been more widely studied. The few studies that have been performed on ethylmercury have been of limited value, for several reasons.

Perhaps Dr. Thomas Verstraeten conducted the broadest review of a possible relationship between thimerosal and neurological disorders in 2000. This study reviewed several years of medical records from the Vaccine Safety Datalink maintained by the CDC. As noted earlier, Phase I of this study purported to find a statistically significant association between exposure to thimerosal and some neurological disorders. However, this study has never been published. Moreover, because the data used in the study comes from the Vaccine Safety Datalink, and because the medical records in this database are jealously guarded by the CDC, the data used in this study has never been made public. It is discussed at greater length in the next section of this report.

In November of 2002, a study on thimerosal conducted at the University of Rochester was published in The Lancet, Great Britain's premiere medical journal. The authors studied 40 children who were given vaccines containing thimerosal, and 21 children who were given vaccines without thimerosal. Samples of blood, stools and urine were obtained from 3 to 28 days after vaccination to determine how much mercury remained in the blood and how much was expelled in the urine and in stools.

The authors found low levels of mercury in the blood of infants exposed to thimerosal, and high levels of mercury in their stools, indicating to them that ethylmercury has a shorter half life then methylmercury, and that most of the mercury was excreted through the gastro-intestinal tract. According to the authors:

''We have shown that very low concentrations of blood mercury can be detected in infants aged 2–6 months who have been given vaccines containing thiomersal [sic]. However, no children had a concentration of blood mercury exceeding 29 . . . parts per billion, which is the concentration thought to be safe in cord blood.''

The authors went on to conclude:

''Overall, the results of this study show that amounts of mercury in the blood of infants receiving vaccines formulated with thiomersal [sic] are well below concentrations potentially associated with toxic effects. Coupled with 60 years of experience with administration of thiomersal-containing vaccines, we conclude that the thiomersal in routine vaccines poses very little risk to full-term infants, but that thiomersal-containing vaccines should not be administered at birth to very low birth weight, premature infants.''

Skeptics of a vaccine-autism connection hailed this study. However, its value is limited by a number of criticisms that have been raised since its publication. Some of the most commonly cited shortcomings were discussed in testimony at the Committee's December 10, 2002, hearing by Baylor University's Dr. Baskin.

1. The sample size was very small:

Only 40 children who received thimerosal were studied. If a small number of children were genetically predisposed to injury by mercury, the chances of a sample of 40 children detecting such a trend would be very low. In his testimony, Dr. Baskin stated:

''The sample size, as you said, Dr. Weldon, was small. Autism occurs in one in 150 kids. So if a child had some different tendency in their blood to absorb more mercury or have it remain in the blood longer or be more sensitive in their brain, if they only checked 40 kids, they may well not have found even one kid with a predisposition to autism.''

2. The sample was not random:

In his testimony, Dr. Baskin commented on the importance of a random sample size:

''The sample wasn't random. They didn't take kids from different portions of the population in different areas. If there's some metabolic difference based on race or sex or where you live or other things, they wouldn't have found it.''

3. Blood samples were drawn too late to detect peak levels of mercury:

In an effort to determine how long it takes ethylmercury to be expelled from an infant's body, and what the expected half-life of injected ethylmercury is, the authors drew blood from their subjects at varying times between three and 28 days after shots were administered. However, as Dr. Baskin notes, peak levels of mercury in the blood are expected to appear within 24 hours:

''We know the stool levels were high, but if you look at when they actually measured the blood levels, they said it was somewhere between 3 and 27 days later. The peak mercury levels after injection occur within hours or at least within the first 24 hours. So if they were drawing blood later than that, and much later than that, of course the levels weren't going to be high. But the mercury doesn't jump from the injection to the stool; it goes through the blood. At some point it was high because it was high in the stool.''

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''You can't do a pharmacokinetic study if you don't have the peak level. They clearly didn't have the peak level because they have high stool mercury, and they have low blood mercury—it doesn't make sense.''

4. The study did not measure the effects of mercury on infants, only the levels of mercury:

While the University of Rochester study measured the levels of mercury in infants' bodies at various times beyond peak levels, it did not attempt to determine the effects of the mercury on their bodies. This limitation was clearly brought out in an exchange between Congressman Burton and Dr. Christopher Portier, Director of the Environmental Toxicology Program at the National Institute of Environmental Health Sciences:

Mr. Burton: ''Does the study recently published in The Lancet identify the effects of mercury on infants who are vaccinated with thimerosal?''

Dr. Portier: ''No.''

Given the small sample size, the failure to measure mercury at peak levels, and the study's inability to measure the effects of the ethylmercury present in the bodies of the subjects, it is difficult to understand how the authors can come to the broad conclusion that, ''the thimerosal in routine vaccines poses very little risk to full-term infants.'' If anything, the limitations of this study point out the need for much more research to be done. As Dr. Baskin pointed out:

''They described this as a descriptive study, and that's exactly what it was. It provides some interesting information, it's a start, but the interpretation is inaccurate.''

VII. EVIDENCE OF ETHYL MERCURY'S TOXICITY WAS NEGLECTED BY MANUFACTURERS AND FEDERAL REGULATORS FOR YEARS

A. Introduction

Evidence of ethylmercury's toxicity was available to Federal regulators and the private sector almost from the product's inception. For far too long, both neglected this evidence. Despite evidence dating to the 1930s that ethylmercury in medicines was potentially hazardous, little was done to remove it from a number of products until the 1980's. Even then, regulatory actions to remove thimerosal and other mercury compounds from medical products proceeded at a glacial pace. The decision to remove thimerosal from topical ointments was not finalized until 1998. The removal of thimerosal from several childhood vaccines in the United States wasn't accomplished until after the turn of the century. Today, the vaccine for influenza given to infants still contains trace amounts of ethylmercury.

For decades, ethylmercury was used as a preservative or anti-bacterial agent in a range of products, including antiseptic ointments for treating cuts, nasal sprays, eye solutions, diaper rash treatments, contraceptive products, and perhaps most importantly, vaccines. Several years after an FDA advisory committee found that thimerosal wasn't safe for use in topical ointments, new childhood vaccines containing thimerosal were being approved and added to the recommended schedule. It appears that nobody analyzed the potential impact of the increased cumulative amount of mercury to which young children were being exposed. In fact, if Congress had not enacted legislation in 1997 requiring the FDA to study the amounts of mercury being used in FDA-approved products, it is questionable that the FDA would have analyzed mercury in vaccines at all.

It is no wonder that, in its report on thimerosal, the Institute of Medicine commented:

''The presence of mercury in some vaccines can raise doubts about the entire system of ensuring vaccine safety, and late recognition of the potential risk of thimerosal in vaccines may contribute to a perception among some that careful attention to vaccine components has been lacking.''

It is clear that the guiding principal for FDA policymakers has been to avoid shaking the public's confidence in the safety of vaccines. For this reason, many FDA officials have stubbornly denied that thimerosal may cause adverse reactions. Ironically, the FDA's unwillingness to address this issue more forcefully, and remove thimerosal from vaccines earlier, may have done more long-term damage to the public's trust in vaccines than confronting the problem head-on. Given the serious concerns about the safety of thimerosal, the FDA should have acted years earlier to remove this preservative from vaccines and other medicines.

B. Thimerosal manufacturers accumulated evidence of the toxicity of thimerosal

Eli Lilly and Company of Indianapolis licensed thimerosal in 1930. It was marketed under the brand name ''Merthiolate.'' It was used extensively both in topical ointments to prevent infections and as a preservative in a variety of medicines. However, it now appears that very little research on the safety or effectiveness of thimerosal was ever done.

Eli Lilly was not the only manufacturer of thimerosal or other ethylmercury products. In fact, they phased out their production of thimerosal in 1974. However, Eli Lilly initially patented this product and had a longer history with it than any other company. Therefore, it is appropriate to review Lilly's track record in ensuring the safety and reliability of this product.

A review of internal Eli Lilly documents dating back 70 years suggests that the only study of thimerosal involving human subjects was done prior to 1930. For the next seven decades, Lilly spokespeople would refer to that original study as evidence of thimerosal's safety. However, it is now clear that this uncontrolled study was woefully inadequate.

As previously discussed in this study, an intravenous solution containing thimerosal was tried as an experimental treatment for 22 men who were seriously ill with Meningitis. While the treatment was found to be ineffective, the doctor who conducted the study concluded that the solution caused no harmful side effects. It is clear today that such a limited number of subjects, all suffering from the same serious illness, would

hardly qualify as a sufficiently sized random sample, and a study such as this one would be of very little value by today's standards. In fact, an internal Eli Lilly memo from 1972 candidly notes the study's shortcomings:

''Considering the type of patient involved, one might question these observations (the appearance of no deleterious action) as providing adequate indication of any harmful effects of high doses of Merthiolate in humans, in particular, more long term effects.''

In 1973, the FDA requested additional data on Merthiolate from Eli Lilly. Lilly's Director of Regulatory Affairs, E.A. Burrows, responded with a ringing defense of Lilly's product on February 14, 1973:

''Due to the length of time this product has been on the market, its efficacy and safety have been proven by over forty years of use throughout the world. Because of this long period of use, it would be difficult to get recognized researchers to conduct new studies for safety or efficacy. They believe that over forty years of wide usage has proven efficacy and safety beyond that which could be done in special studies.''

Despite Mr. Burrow's contention, numerous internal Lilly documents recognized the lack of data on thimerosal and suggested the need for more research:

An April 24, 1930, intra-office memo stated:

''. . . in view of our experience with the merthiolate solution, we have to know pretty definitely what to expect from merthiolate ointment and jelly before they are put on the market . . . Can we expect to have the stronger ointment and jelly used without complaint which attended the use of the solution in the same strengths? . . . Our experience with the solution ought to serve as a warning and certainly in the face of that warning we ought not to advocate the use of the stronger products without some pretty definite evidence that we will not repeat our solution experience.''

A September 1934, paper from Lilly's files states:

''[L]ittle is known about the effect of mercuric compounds when inoculated into humans. It is therefore preferable to use the minimum amount of this preservative necessary to maintain the sterility of the product.''

An April 1969, memo regarding the possible use of thimerosal in contact lens solution states:

''When Merthiolate breaks down, are the degradation products toxic or irritating? Our files yield no test information on the irritancy of degraded merthiolate.''

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''Would we recommend the use of merthiolate solution to store and sterilize contact lenses? In the absence of appropriate data, a positive recommendation could not be made, this use does not seem unreasonable and probably would not be hazardous.''

A December 1972, memo states:

''A review of some data being generated by the current concern for mercury in the environment suggests it would be advisable to obtain data on the metabolic deposition of Merthiolate.'' . . .

An August 1973, memo entitled, ''Merthiolate Toxicity,'' acknowledged:

''The effects of long-term, intravenous use in man is not known, no long-term toxicity tests have been performed.''

Perhaps more disturbing is that Lilly's files contained numerous papers and reports documenting the toxicity and hypersensitivity of Merthiolate. Although these papers and case reports strongly suggested the need for much more research, there apparently was little follow-up.

A July 1935, letter from the Pittman-Moore Company indicated that Merthiolate was not appropriate for use in dogs:

''We have obtained marked local reaction in about 50% of the dogs injected with serum containing dilutions of Merthiolate, varying in 1 in 40,000 to 1 in 5,000, and we have demonstrated conclusively that there is no connection between the lot of serum and the reaction. In other words, Merthiolate is unsatisfactory as a preservative for serum intended for use on dogs. Occasional dogs do not show the local reaction, but in some instances, the reaction is extremely severe. I might say that we have tested Merthiolate on humans and find that it gives a more marked local reaction than does phenol or tricresol.''

A 1947 paper published by an Army physician in Baltimore reported that Merthiolate was causing contact dermatitis in his patients. He concluded:

''No eruptions or reactions have been observed or reported to Merthiolate internally, but it may be dangerous to inject a serum containing Merthiolate into a patient sensitive to Merthiolate.''

A 1948 paper from an Arizona doctor reported the case of a woman who suffered repeated multiple reactions to Merthiolate applied to her skin prior to surgery. She reportedly suffered chills and fevers and had small vesicles and erythema in the area of her Merthiolate application. After her recovery, the patient indicated that the ulcer for which she was being surgically treated appeared after repeated application of a tincture of Merthiolate. She continued applying the Merthiolate until her skin became too raw and painful to continue use, and then sought medical care.

A 1950 New York Academy of Sciences article entitled, ''Mercurials as Antiseptics,'' found that Merthiolate ''is toxic when injected parenterally and therefore cannot be used in chemotherapy.''

A 1973 article, entitled, ''Dangers of Skin Burns from Thimerosal,'' reported the case of a woman who received severe burns resulting from a chemical interaction between thimerosal and aluminum. The article suggested that thimerosal and aluminum should not be used together. Later in 1973, Lilly's legal department recommended new labeling language for thimerosal products: ''Do not use when aluminum may come in contact with treated skin.'' Unfortunately, thimerosal and aluminum were used together in the DTP and DTaP vaccines for years.

C. The FDA was painfully slow to require the removal of mercury from over-the-counter (OTC) products.

In 1974, the FDA undertook a comprehensive review of the safety and effectiveness of over-the-counter medicines. As one facet of this review, a panel of experts was assembled to review the safety and efficacy of over-the-counter drugs containing mercury. The Advisory Review Panel on OTC Miscellaneous External Drug Products began this review in 1975. In 1980, the panel delivered its report to the FDA. It reviewed 18 products containing mercury, and found them all either unsafe or ineffective for their stated purpose of killing bacteria to prevent infections.

In terms of effectiveness, the panel stated that, ''mercury compounds as a class are of dubious value for anti-microbial use.'' They stated that, ''mercury inhibits the growth of bacteria, but does not act swiftly to kill them.'' In fact, the panel cited a 1935 study of the effectiveness of thimerosal in killing staphylococcus bacteria on chick heart tissue. The study determined that thimerosal was 35 times more toxic to the heart tissue it was meant to protect than the bacteria it was meant to kill.

In terms of safety, the panel cited a number of studies demonstrating the highly allergenic nature of thimerosal and related organic mercury products. For instance, they cited a Swedish study that showed that 10 percent of school children, 16 percent of military recruits, 18 percent of twins, and 26 percent of medical students had hypersensitivity to thimerosal. They stated that while organic mercury compounds like thimerosal were initially developed to decrease the toxicity of the mercury ion, thimerosal was actually found to be more toxic than bichloride of mercury for certain human cells.

By way of summary, they stated the following:

''The Panel concludes that thimerosal is not safe for OTC topical use because of its potential for cell damage if applied to broken skin, and its allergy potential. It is not effective as a topical antimicrobial because its bacteriostatic action can be reversed.''

Despite the fact that the expert committee found thimerosal and other ethyl-mercury compounds unsafe and ineffective for over-the-counter products, the FDA would not formally require the removal of mercury from these products for another 18 years. The submission of the committee's report in 1980 set in motion a tortuous bureaucratic process that would not result in the banning of mercury from over-the-counter products until 1998. The agency published Advanced Notice of Proposed Rules or Notice of Proposed Rules regarding these products in 1980, 1982, 1990, 1991, 1994 and 1995.

What makes the glacial pace of these proceedings all the more mystifying is that there appears to have been no opposition to this action throughout the process. No individuals sought to appear before the advisory committee in defense of mercury-containing products, and when the FDA sought public comment along the way on proposed rules to ban certain mercury-based products, it received none. At the time of the FDA's final action, there were 20 over-the-counter products containing mercury being marketed by eight different manufacturers. Their silence on this point is telling.

D. The FDA's actions to remove mercury from over-the-counter products should have prompted a review of mercury in vaccines.

It is difficult to understand why it took the FDA 18 years to remove mercury from over-the-counter products. It is equally difficult to understand why the expert panel's 1980 findings on thimerosal's safety in topical ointments did not prompt the FDA to further and immediately review the use of thimerosal in vaccines. Surely there must have been concern that if it was not safe to apply ethylmercury to the surface of an individual's skin, it might not be safe to inject ethylmercury deep into an infant's tissue. The Director of the FDA's National Center expressed such a concern at a 1999 meeting for Toxicological Research, Dr. Bernard Schwetz, who went on to serve as the Acting Director of the FDA for nearly a year:

''One thing I haven't heard discussed, the fact that we know that ethylmercury is a skin sensitizer when it's put on the skin, and now we're injecting this IM (intramuscularly) at a time when the immune system is just developing, the functionality of the immune system is just being set at this age. So now we're injecting a sensitizer several times. During that period of time, what's the impact of a sensitizer—of something that is known to be a skin sensitizer, what is the effect on the functional development of the immune system when you give a chemical of that kind repeatedly IM?''

Different branches of the FDA regulate over-the-counter products and vaccines. OTCs are regulated by the Center for Drug Evaluation and Research (CDER). Vaccines are regulated by the Center for Biologics

Evaluation and Research (CBER). This, however, is little justification for the lack of coordination. The FDA's determination that mercury was unsafe and should be removed from over-the-counter medications was published in the Federal Register no fewer than five times prior to the FDA's belated review of mercury in vaccines.

What finally prompted the FDA to review mercury in vaccines was not its own regulatory process, but rather an act of Congress. In 1997, Congress passed and the President signed into law, the Food and Drug Administration Modernization Act (FDAMA). Among other things, this law required the FDA to compile a list of foods and drugs that contained intentionally-introduced mercury, study its effects on the human body, and restrict its use if found to be harmful.

E. Federal regulators moved too slowly to remove thimerosal from vaccines

Once the FDA did initiate its review of mercury in vaccines, it kicked off a vigorous debate among Federal regulators over the dangers of using thimerosal in childhood vaccines. This debate, which at times pitted one health-care bureaucracy against another, spanned nearly three years. Given the fact that almost twenty years had passed since an expert panel had determined that thimerosal was unsafe in topical ointments, it is surprising that there was any further debate at all.

There was tremendous reluctance on the part of some officials to admit that a mistake had been made in allowing ethylmercury to be used in vaccines. There was great uncertainty in others caused by the lack of data specifically on ethylmercury. However, the institutional resistance to change was counter-balanced by the growing realization that there was more ethylmercury in childhood vaccines than previously thought, and that nobody had thought to calculate the cumulative amounts. The essence of the debate was captured in a 1999 e-mail from a former FDA official weighing the pros and cons of taking action. He opined that hastening the removal of thimerosal from vaccines would:

''. . . raise questions about FDA being 'asleep at the switch' for decades by allowing a potentially hazardous compound to remain in many childhood vaccines, and not forcing manufacturers to exclude it from new products. It will also raise questions about various advisory bodies regarding aggressive recommendations for use. (We must keep in mind that the dose of ethylmercury was not generated by 'rocket science'. Conversion of the percentage thimerosal to actual micrograms of mercury involves ninth grade algebra. What took the FDA so long to do the calculations? Why didn't CDC and the advisory bodies do these calculations when they rapidly expanded the childhood immunization schedule?)''

It is clear that each time an important decision had to be made, the factions that were skeptical of thimerosal's dangers and favored a ''go-slow'' approach, were able to water down the actions. In 1999, when the Federal government could have ordered thimerosal removed from vaccines by a specific date, or stated a preference for thimerosal-free vaccines, a statement was instead issued asking for a commitment from vaccine manufacturers to eliminate or reduce mercury in vaccines as expeditiously as possible. As a result, almost two years passed before the three major thimerosal-containing vaccines—DTaP, Hib and Hepatitis B—were being manufactured in thimerosal-free formulations. In 2001, when the CDC and its influential advisory committee could have stated a preference for thimerosal-free vaccines, they chose not to do so. As a result, thimerosal-containing vaccines that remained in stock in doctors' offices continued to be used. In point of fact, we have no proof that in 2003, some children in the United States are not still receiving thimerosal-preserved vaccines that have lingered in medical offices or clinics.

The CDC's decision not to endorse thimerosal-free vaccines in 2001 is particularly troubling. With the exception of the influenza vaccine, all major childhood vaccines were being manufactured without thimerosal at that time, so there was little threat of shortages. Their failure to state a preference was an abdication of their responsibility.

The task of analyzing the amount of mercury in vaccines and its ramifications was assigned to Dr. Leslie Ball, a pediatrician employed at the FDA and her husband and colleague Dr. Robert Ball, a medical officer at FDA's CBER. Despite the general lack of scientific research on the toxicity of ethylmercury, their review of the available literature led to two working conclusions:

1. The recommended guidelines for exposure to methylmercury were a good starting point for reviewing exposure to ethylmercury; and
2. The amount of ethylmercury in children's vaccines exceeded the EPA's guidelines for exposure to methylmercury.

An exchange of e-mails in October of 1998 makes clear that Dr. Leslie Ball was already leaning toward the removal of thimerosal from vaccines. It also makes clear that there was internal resistance to such an action. Dr. Marion Gruber of the Office of Vaccine Research and Review forwarded an internal FDA memo to Dr. Ball, which concluded that:

''. . . no scientific database to take regulatory actions and to recommend to take thimerosal either out of vaccines or to leave it in. In fact, somebody should perform the adequate studies to come to a conclusion on the toxicity of thimerosal or its metabolized forms.''

Dr. Ball's response on October 15, 1998, to Dr. Hasting's conclusion was sharp:

''I disagree about the conclusion regarding no basis for removal of thimerosal. On a strictly scientific basis, yes, there are no data that have looked at the specific issue of thimerosal in vaccines. However, there are factors/data that would argue for the removal of thimerosal, including data on methylmercury exposure in infants and the knowledge that thimerosal is not an essential component to vaccines. In addition, the European community is moving to ban thimerosal.''

In a 2002 interview with Committee staff, Dr. Ball confirmed that it was her opinion that, if there was any question, the safest course of action should be taken, and thimerosal should be removed.

An important part of the FDA's review was a comparison of the amount of ethylmercury in vaccines to the recommended safe levels for exposure to methylmercury established by the EPA and the FDA. In 1999, a consultant to the FDA, Dr. Barry Rumack, developed a pharmacokinetic model to analyze the amount of mercury to which infants were being exposed. The FDA produced to the Committee two charts developed from that model dated June 28, 1999. Both charts demonstrate what has now become widely acknowledged, that most children in the 1990s received doses of ethylmercury in their vaccines that exceeded the EPA's limits for exposure to methylmercury (0.1 micrograms per kilogram) for at least the first six months of their lives. Even more significantly, the charts also indicate that most children received doses of ethylmercury that exceeded the FDA's less-restrictive limits (0.4 micrograms per kilogram) for at least the first two months of their lives.

Federal officials have never publicly acknowledged this second fact. In public statements and Congressional testimony, they have acknowledged only that the EPA's lower limit was exceeded, even though simple math makes clear that most infants also breached the FDA's higher limit of 0.4 micrograms per kilogram.

Dr. Neal Halsey, Director of the Institute of Vaccine Safety at Johns Hopkins University, acknowledged this important fact, however. As previously mentioned, Dr. Halsey became convinced that thimerosal should be removed from vaccines. On June 22, 1999, Dr. Ball presented the results of her research to the Medical Policy Coordinating Committee of the FDA's Center for Biologics Evaluation and Review (CBER). Dr. Halsey attended that meeting. The next day, on June 23, 1999, Dr. Halsey wrote a letter to the members of the American Academy of Pediatricians' Committee on Infectious Diseases, which he chaired. He stated:

''In the past few days, I have become aware that the amount of thimerosal in most hepatitis B, DTaP and Hib vaccines that we administer to infants results in a total dose of mercury that exceeds the maximum exposure recommended by the EPA, the FDA, CDC and WHO . . .''

Dr. Halsey's admission that more than just the EPA's more conservative guideline was exceeded is a significant departure from the public statements of most Federal officials. Dr. Halsey acknowledges that the guidelines of the EPA, the CDC, the FDA and the World Health Organization were all exceeded.

Another noteworthy fact is that the charts produced by Dr. Rumack, and the FDA's analysis in general, failed to take into consideration the background levels of mercury to which children are exposed from other sources. Dr. Ball pointed out this weakness in her June 1999 e-mail:

''These calculations do not account for other sources of Hg [mercury] in the environment. Even infants can have additional exposures, e.g., breast milk.''

One document written by Dr. Ball estimated that exposure to mercury from sources other than vaccines could total roughly 80 to 100 micrograms per year. Background levels were included in all calculations prepared by the European Medical Evaluation Agency, which was at the time reviewing thimerosal in vaccines in Europe. If background levels of mercury had been incorporated into the FDA's and CDC's calculations, the results would have been even more pronounced, possibly even leading to more aggressive measures to remove thimerosal. It is unfortunate that this simple, and scientifically expected step was not taken.

The issue of what to do with thimerosal in vaccines came to a head in the summer of 1999. In June and July, a series of meetings were held involving the FDA, the CDC, the Public Health Service, the American Association of Pediatricians, and other agencies. Documents reviewed by the Committee indicate that the Public Health Service opposed a public effort to remove thimerosal from vaccines. One FDA document stated that the Public Health Service was concerned that stating a preference for thimerosal-free vaccines could ''result in unwarranted loss of confidence in immunization programs in the US and internationally, shortages of childhood vaccines might ensue, and other potential far-reaching ramifications are envisioned.''

In a July 2, 1999, e-mail, Dr. Ruth Etzel of the Department of Agriculture also noted the Public Health Service's resistance:

''We must follow the three basic rules: (1) act quickly to inform pediatricians that the products have more mercury than we realized; (2) be open with consumers about why

we didn't catch this earlier; (3) show contrition. As you know, the Public Health Service informed us yesterday that they were planning to conduct business as usual, and would probably indicate no preference for either product. While the Public Health Service may think that their 'product' is immunizations, I think their 'product' is their recommendations. If the public loses faith in the PHS recommendations, then the immunization battle will falter. To keep faith, we must be open and honest now and move forward quickly to replace these products.''

Adding to the pressure on the Federal government to act was the fact that steps were being taken in Europe to remove thimerosal from vaccines. On April 19, 1999, the European Agency for Medicinal Evaluation (EMEA) met in London. The EMEA is responsible for establishing guidelines for the use of drugs and biologics in the European Union. The FDA's Dr. Norman Baylor attended this meeting. Following this meeting, on June 29, 1999, the EMEA issued a document encouraging the removal of thimerosal from childhood vaccines:

''Vaccines: The fact that the target population for vaccines in primary immunization schedules is a healthy one, and in view of the demonstrated risks of thiomersal (sic) and other mercurial containing preservatives, precautionary measures (as outlined below) could be considered.

''For vaccination in infants and toddlers, the use of vaccines without thimerosal [emphasis added] and other mercurial preservatives should be encouraged.''

By early July, a compromise on a course of action was reached in the U.S. between the competing factions. A joint statement was released by the American Academy of Pediatrics and the U.S. Public Health Service. The statement included the following points:

Acknowledged that some children may have been exposed to levels of mercury that exceed one Federal guideline on methylmercury during the first six months of life;

Asserted that there is no evidence of any harm caused by thimerosal in vaccines;

Called on vaccine manufacturers to make a clear commitment to reduce as expeditiously as possible, the mercury content of their vaccines;

Urged doctors and parents to immunize all children, even if thimerosal-free vaccines are not available; and

Encouraged doctors and parents to postpone the Hepatitis B vaccine (which contained thimerosal at the time, and was generally given immediately after birth) until the child is two to six months old, unless the mother tested positive for Hepatitis B.

Given the information that the Federal agencies had at the time, the plan of action laid out in the joint statement was inadequate. They could have, but did not, acknowledge that the amount of thimerosal in vaccines exceeded every Federal guideline for exposure to methylmercury for the majority of infants. They could have, but did not, require vaccine manufacturers to remove thimerosal from vaccines by a specific date. They could have, but did not, urge pediatricians to choose thimerosal-free vaccines when both thimerosal-containing and thimerosal-free vaccines were available.

As a result of the limited steps taken in 1999, vaccines containing thimerosal remained on the market for nearly two years. GlaxoSmithKline's Hepatitis B vaccine did not become thimerosal-free until March of 2000, and Aventis Pasteur's DTaP vaccine did not become thimerosal-free until March 2001. In addition, thimerosal-containing vaccines on the shelves in doctor's offices around the country continued to be used in spite of the fact that thimerosal-free versions were available.

The fact that more forceful action to remove thimerosal from the vaccine marketplace was not taken in 1999 is disappointing. Just as disappointing, and even more difficult to understand, is the fact that the CDC, on two separate occasions, refused to publicly state a preference for thimerosal-free vaccines.

In June of 2000, the CDC's Advisory Committee on Immunization Practice met in Atlanta. Among other things, the Advisory Committee was called upon to recommend whether the CDC should issue a public statement of preference for thimerosal-free vaccines. At the time, the industry was in the midst of its transition to thimerosal-free childhood vaccines, and several vaccines containing thimerosal were still on the market. Of particular concern was the DTaP vaccine. In June of 2000, three of the four DTaP manufacturers (Aventis Pasteur, North American Vaccine and Wyeth) were still producing DTaP with thimerosal. Only SmithKline Beecham produced a thimerosal-free DTaP. In addition, because manufacturers of the Hib and Hepatitis B vaccines had just recently converted to formulas that were thimerosal-free or contained trace amounts of thimerosal, older versions of these vaccines containing thimerosal were still in inventories and being used around the country.

A statement of preference by the CDC would have been a clear signal to pediatricians not to use vaccines containing thimerosal, when thimerosal-free versions were available. This action would have substantially reduced the exposure to ethylmercury for many infants. Despite this knowledge, the advisory committee voted unanimously not to state a preference.

CDC officials guided the Advisory Committee toward this conclusion. For example, while three different options were presented to the Advisory Committee members, a detailed policy statement to be issued to the public had been prepared for only one of these options—a statement of no preference. In describing the three options, Dr. Roger Bernier of the CDC clearly indicated the CDC's desire not to state a preference for thimerosal-free vaccines. He said:

''We believe that such a policy would be consistent with the evidence that we have at this time. The policy seems to be working . . .''

* * * * *

''As I said, the policy seems to be working. So this indicates that on this particular factor, this policy is moving us in an upward direction towards—it's a positive thing.''

In rejecting a statement of preference for thimerosal-free vaccines, the Advisory Committee considered a number of factors. These included a desire to avoid confusion, and a concern that immunization rates might fall, allowing for an outbreak of diseases such as Pertussis or Hepatitis B. However, one of the factors that were also considered was the financial health of the vaccine industry. In describing the pros and cons of each option, Dr. Bernier returned several times to financial issues:

''We think that having this type of a more staged transition reduces the potential for financial losses of existing inventories, and is somewhat akin to what was done in the transition from oral polio to inactivated polio . . .''

* * * * *

''It could entail financial losses of inventory if current vaccine inventory is wasted. It could harm one or more manufacturers and may then decrease the number of suppliers.''

* * * * *

''The evidence justifying this kind of abrupt policy change does not appear to exist, and it could entail financial losses for all existing stocks of vaccines that contain thimerosal.''

The financial health of the industry should never have been a factor in this decision. The financial health of vaccine manufacturers certainly should never have been more important to the Federal health officials than the health and well being and the nation's children. The CDC has a responsibility to protect the health of the American public. If there were any doubts about the neurological effects of ethylmercury in vaccines on children—and there were substantial doubts—the prevailing consideration should have been how best to protect children from potential harm. However, it appears that protecting the industry's profits took precedent over protecting children from mercury damage.

In opting not to state a preference for thimerosal-free vaccines, the Advisory Committee shrugged off two sensible proposals that were presented during the meeting. A representative of SmithKline Beecham (now GlaxoSmithKline) stated that her company could supply sufficient amounts of thimerosal-free DTaP vaccine to ensure that the youngest infants receiving the initial doses of DTaP could receive thimerosal-free doses:

''I think it's important that you know that, although we cannot supply the entire U.S. market right now for all five doses immediately, we would be able to supply the vast majority of the U.S. market for the primary series, that is with targeting of the first three doses.''

Given the repeated concerns expressed about the effects of mercury on the developing central nervous system in very young babies, ensuring thimerosal-free doses for the first three boosters of DTaP would seem to merit serious consideration. However, this suggestion was passed over without any comment.

Later in the discussion, Dr. Neal Halsey made another suggestion that would limit the exposure of infants to ethylmercury. He suggested that the Advisory Committee adopt a policy that no child should receive more than one thimerosal-containing vaccine per day:

''Roger, you said that after July, the maximum exposure will be 75 micrograms. My understanding from the information presented from the manufacturers is that there really still is some Hib out there in the market that is being used, but does contain thimerosal as a preservative. There also is hepatitis B out there that does contain it. So there's no guarantee the maximum exposure would be 75 micrograms. What I proposed last October was that they put a limit of one thimerosal-containing vaccine as a preservative per visit, which would then guarantee what you're looking for. And I think that that's the right policy because that allows for the continued use, though very limited. It eliminates the maximum exposure, but you do have the problem of what's in the pipeline.''

Again, it appears that this seemingly sensible proposal received no serious consideration.

One year later, in June of 2001, the Advisory Committee again rejected the idea of expressing a preference for thimerosal-free vaccines, despite the fact that all manufacturers of Hib, Hepatitis B and DTaP had shifted to thimerosal-free products at that point. The CDC's decision not to express a preference for thimerosal-free vaccines, and the Advisory Committee's concurrence in this policy, was an abdication of their responsibility. As a result of their inaction, children continued to receive vaccinations containing ethylmercury at a time when there were serious doubts about its safety.

What makes the CDC's decision even more vexing is that just prior to the Advisory Committee meeting in 2000, a study conducted by the CDC suggested that there was at least a weak correlation between exposure to thimerosal and several types of neurological disorders.

The study, initiated in 1999, reviewed the medical records of 110,000 children in the CDC's Vaccine Safety Datalink (VSD). The VSD is a massive database that tracks the medical records of hundreds of thousands of patients belonging to seven major health maintenance organizations. Phase I of the study was designed to screen data for potential associations between thimerosal-containing vaccines and selected neurological disorders. Phase II was designed to test the hypotheses generated in the first phase.

Phase I produced a statistically-significant association between exposure to thimerosal during the first three months of life, and tics, attention deficit disorder, language and speech delays, and general neurodevelopmental delays. The study did not find a correlation between thimerosal and autism because the sample size of children diagnosed with autism was in all probability not large enough.

The findings of Dr. Verstraeten, the primary author of the study, set off a fierce debate within the Federal health agencies when they were released in June of 2000. Enough concern was generated that a conference of medical experts was assembled at the Simpsonwood Retreat Center near Atlanta. At this conference, Dr. Verstraeten explained that the study underreported the numbers of children with developmental disorders, including autism. This occurred because the youngest subjects in the study were not yet at an age at which such disorders were likely to be diagnosed. He commented:

''But one thing that is for sure, there is certainly an under-ascertainment of all of these [disorders] because some of the children are just not old enough to be diagnosed. So the crude incidence rates are probably much lower than what you would expect because the cohort is still very young.''

Dr. Colleen Boyle of the CDC raised this issue a few months earlier. She states in an April 25, 2000, e-mail to Dr. Frank DeStefano, one of the study's co-authors:

''For me, the big issue is the missed cases—and how this relates to exposure. Clearly there is a gross underreporting—1.4% of the kids dignosed with a speech and language problem versus 4–5% reported in National surveys; less than 1% with ADHD versus 3–10% reported previously, etc.''

Had the study been extended until these children were older, a stronger correlation between thimerosal and neurological disorders might have been detected, as more children were diagnosed. However, this was not done. Ultimately, the majority of the Simpsonwood panel determined that the VSD study was not conclusive. Phase II of the VSD study failed to confirm the findings of Phase I, largely because of the small sample size employed (16,000, as opposed to 110,000 in Phase I). The Institute of Medicine determined that, ''the small sample size limited the power of the study to detect a small effect, if it exists. The committee concludes that the Phase I and II VSD analyses are inconclusive with respect to causality.''

Although the panel assembled at the Simpsonwood Retreat Center had many unanswered questions about the VSD study, some members found the evidence compelling. Dr. David Johnson, Public Health Officer for the state of Michigan and a member of the Advisory Committee on Immunization Practices stated:

''This association leads me to favor a recommendation that infants up to two years old not be immunized with Thimerosal- containing vaccines if suitable alternative preparations are available . . . I do not believe that the diagnoses justifies compensation in the Vaccine Compensation Program at this point. I deal with causality, it seems pretty clear to me that the data are not sufficient one way or the other. My gut feeling? It worries me enough. Forgive this personal comment, but I got called out at eight o'clock for an emergency call and my daughter-in-law delivered a son by C-Section. Our first male in the line of the next generation, and I do not want that grandson to get a Thimerosal-containing vaccine until we know better what is going on. It will probably take a long time. In the meantime, and I know that there are probably implications for this internationally, but in the meantime I think I want that grandson to only be given Thimerosal-free vaccines.''

One participant in the Simpsonwood panel later stated that, while there was general agreement that the VSD study did not prove a causal relationship between thimerosal and neurological disorders, it did indicate the need for much more research:

''So what were the responses of the consultants? With regard to the first question, a need for further investigation. Overall the group expressed unanimous feeling that the findings supported a statistically significant, although weak, association, but that the implications—for obvious reasons—are profound. Therefore, the consultants were unanimous in their opinion that further investigation should be pursued with a degree of urgency and, parenthetically, not only for public health policy in this country, but for public health policy around the world.''

Documents reviewed by the Committee indicate that Dr. Verstraeten was not pleased with the response to his study. During the Simpsonwood conference, he stated:

''When I saw this, and I went back through the literature, I was actually stunned by what I saw—because I thought it was plausible.''

A month later, he sent an e-mail to Dr. Phillippe Grandjean, the author of several groundbreaking studies on the toxicity of mercury. Dr. Verstraeten wrote:

''I know that much of this is very hypothetical and, personally, I would rather not drag the Faroe and Seychelles studies into this entire thimerosal debate, as I think they are as comparable as apples and pears at the best. Unfortunately I have witnessed how many experts, looking at this thimerosal issue, do not seem bothered to compare apples to pears and insist if nothing is happening in these studies, then nothing should be feared of thimerosal. I do not wish to be the advocate of the anti-vaccine lobby and sound as if I am convinced that thimerosal is or was harmful; but at least I feel we should use sound scientific argumentation, and not let our standards be dictated by our desire to disprove an unpleasant theory.''

It appears that many who participated in the thimerosal debates allowed their standards to be dictated by their desire to disprove an unpleasant theory. The decision by the CDC not to state a preference for mercury-free vaccines is especially difficult to understand, given the deep-seated concerns many policy-makers had about the potential impact of ethylmercury on the fragile central nervous systems of developing babies. FDA officials spoke passionately about this problem at a meeting of the National Vaccine Advisory Committee in the summer of 1999. Dr. Katherine Zoon stated:

''We need to understand more about thimerosal because in the past two days, I think we have recognized that there really is a paucity of data, And I think some of the points made about looking at the developing nervous system, looking at the developing immune systems, and the effects of these agents on that at critical times of development, hasn't been—hasn't been done—and I think that knowledge is very important.''

At the same meeting, Dr. Bernard Schwetz, the Director of the FDA's toxicology center, stated:

''. . . the sensitivity of the fetus versus the neonate is very important, and for some of you who have forgotten about the sensitive windows during fetal development, the nervous system develops post-natally. So it isn't unreasonable to expect that there would be particular windows of sensitivity. So it isn't the matter of averaging the dose over the whole neonatal period—it's what's the week or what's the day or what's the series of hours that represent a particular event in the development of the nervous system when this whole thing might be dangerous. There may be weeks surrounding that when there isn't a major problem. We don't have that information.''

VIII. FOCUSED, INTENSIVE RESEARCH EFFORT IS BADLY NEEDED

One of the most consistent refrains heard by the Committee throughout its three-year investigation is that not enough research has been done. The Committee has heard testimony from parents, scientists and government officials that much more research is needed, and that well-designed unbiased research that addresses the specific issues of vaccine-injury must be conducted. Areas in which research is urgently needed include:

The causes of autism.

Treatments for those suffering from autism spectrum disorders.

Possible relationships between vaccine ingredients like thimerosal and autism.

The neurotoxicity of ethylmercury.

The neurotoxicity of dental amalgams containing mercury.

Immune system and gastrointestinal system dysfunction after vaccination.

In 2001, the Institute of Medicine called for much more research into possible relationships between vaccines and autism spectrum disorder. In its report on an alleged relationship between the MMR vaccine and autism, the IOM noted that it ''does not exclude the possibility that MMR vaccines could contribute to ASD'' and recommended ''this issue receive continued attention.'' The IOM made the following research recommendations:

Use accepted and consistent case definitions and assessment protocols for ASD (autism spectrum disorder) in order to enhance the precision and comparability of results from surveillance, epidemiological, biological investigations.

Explore whether exposure to MMR vaccine is a risk factor for ASD in a small number of children.

Develop targeted investigations of whether or not measles vaccine-strain virus is present in the intestines of some children with ASD.

Encourage all who submit reports to VAERS of any diagnosis of ASD thought to be related to MMR vaccine to provide as much detail and as much documentation as possible.

Case Reports in VAERS or elsewhere of ''rechallenge'' should be identified, documented, and followed up. (In the context of MMR vaccine and ASD, rechallenge refers to children who appeared to have experienced some form of neurological regression after a first dose of MMR or other measles-containing vaccine and who appeared to have experienced another regression following a second dose of MMR or other measles-containing vaccine.)

Study the possible effects of different MMR immunization exposures.

Conduct further clinical and epidemiological studies of sufficient rigor to identify risk factors and biological markers of ASD in order to better understand genetic or environmental causes.

In its report on thimerosal-containing vaccines and autism, the IOM stated that there was not enough evidence to reach any conclusions about a possible relationship between thimerosal and autism spectrum disorders. The IOM called for the following types of research:

Case-control studies examining the potential link between neurodevelopmental disorders and thimerosal-containing vaccines;

Further analysis of cohorts of children who did not receive thimerosal-containing doses of vaccines during clinical trials;

Epidemiological studies comparing the prevalence of neurological disorders in children who received vaccines before thimerosal was removed to children who received vaccines after it was removed;

An increased effort to identify the primary sources and levels of prenatal and postnatal exposure to thimerosal;

Clinical research on how children metabolize and excrete metals;

Theoretical modeling of ethylmercury exposures, including the incremental burden of thimerosal on background mercury exposures from other sources;

Research in appropriate animal models on neurodevelopmental effects of ethylmercury;

Rigorous scientific investigations of chelation as a treatment for neurodevelopmental disorders; and

Research to identify a safe, effective and inexpensive alternative to thimerosal for countries that decide they want to follow the example of Europe and the United States and discontinue its use.

One concern that has been raised many times is that responsibility for research into autism and related issues at the NIH has been fragmented. Responsibility is divided among the National Institute of Mental Health, the National Institute of Neurological Diseases and Stroke, the National Institute of Child Health and Human Development, and the National Institute of Environmental Health Sciences. Greater overall coordination is needed. The NIH needs to develop a strategic plan on autism research to bring together the diverse activities, develop a strategy and timeline, and focus research on the most pressing research needs.

Another concern is the lack of a sufficient investment into research on autism and its causes. Autism is growing at epidemic proportions and nobody knows why. The rates of autism doubled during the Committee's investigation, yet funding for research on autism lags badly behind funding for other serious diseases. The NIH, with a budget of $27 Billion dollars last year, invested just $56 Million towards autism research. Much of that research has been focused on looking for genetic causes of autism, which is important, but does not address the possible connection to vaccine injury. To put the spending on autism in perspective, the Committee compared it to the spending on two other serious epidemics—HIV/AIDS and diabetes. At the same time that the NIH was spending $56 Million on autism research, they spent $688 Million on diabetes research and over $2.2 Billion on HIV/AIDS research.

The Centers for Disease Control and Prevention has also been negligent in addressing the research needs regarding vaccine injury and a connection to the autism epidemic. In FY 2002, the CDC invested $11.3 Million on autism, while spending $62 Million on diabetes, and $932 Million on HIV/AIDS. With spending for autism 80 times less than that for AIDS, it is obvious that CDC is not addressing the autism epidemic with enough rigor. Instead, at the time of the Committee's April 2002 hearing, the CDC actually planned to cut autism research spending to $10.2 Million.

Of additional concern has been the CDC's bias against theories regarding vaccine-induced autism. Rather than aggressively work to replicate clinical findings with laboratory data that showed a relationship between vaccines and autism, (the Wakefield autism entercolitis studies), the CDC funded researchers who also worked for vaccine manufacturers to conduct population-based epidemiological studies to look at the possible correlation between vaccine injury and a subset of the population that might be injured. The CDC to date has relied too heavily on epidemiological findings. While epidemiological studies are important, they are not a substitute for focused, clinical research.

Chairman Burton expressed some of these concerns at the June of 2002 hearing:

''Officials at HHS have aggressively denied any possible connection between vaccines and autism. They have waged an information campaign endorsing one conclusion on an issue where the science is still out. This has significantly undermined public confidence in the career public service professionals who are charged with balancing the dual roles of assuring the safety of vaccines and increasing immunization rates. Increasingly, parents come to us with concerns that integrity and an honest public health response to a crisis have been left by the wayside in lieu of protecting the public health agenda to fully immunize children. Parents are increasingly concerned that the Department may be inherently conflicted in its multiple roles of promoting immunization, regulating manufacturers, looking for adverse events, managing the vaccine injury compensation program, and developing new vaccines. Families share my concern that vaccine manufacturers have too much influence as well. How will HHS restore the public's trust?''

It is clear that inadequate scientific evidence exists to understand fully the likely damage done to a generation of children who were repeatedly exposed to significant levels of mercury through their mandatory childhood immunizations. While the use of safe and effective vaccines for dangerous infectious diseases is very important, the lack of quality data addressing the risk of adverse reactions to vaccines and their components undermined public support for this important public health tool.

IX. CONCLUSIONS

It is obvious from all accounts that there is a crisis in the United States regarding the dramatic rise in autism rates and the resulting strain placed on families, the education system, and State Medicaid and disability programs. A further crisis will ensue in the next two decades when we see an explosion in the need for adult services and long-term housing.

In a further attempt to raise the level of awareness of the autism epidemic, in November of 2002, Chairman Burton called upon the President to announce a White House Conference on autism to ''galvanize a national effort to determine why autism has reached epidemic proportions in this country.'' Chairman Burton suggested this would be a valuable opportunity to ''bring together the best minds from across the country to chart a course of scientific research to uncover the underlying causes of this epidemic. . . Mr. President, you are in a unique position to provide the leadership that is necessary to organize a national effort to resolve these problems.'' In January of 2003, the response from Bradley A. Blakeman, Deputy Assistant to the President and Director of Appointments and Scheduling was, ''I do not foresee an opportunity to add this event to the calendar.'' It is unfortunate that the request of the Chairman, and the hundreds of families who personally appealed to the White House for this Conference did not appear to have been brought to the personal attention of the President, who has stated that ''no child shall be left behind.''

Vaccines are the only medicines that American citizens are mandated to receive as a condition for school and day care attendance, and in some instances for employment. Additionally, families who receive Federal assistance are required to show proof that their children have been fully immunized. While the mandate for which vaccines must be administered is a State mandate, it is the Federal Government, through the Centers for Disease Control and Prevention (CDC) and its Advisory Committee for Immunization Practices that make the Universal Immunization Recommendations to which the States refer for determining mandates. Federal programs and funding to State programs provide immunizations free-of-charge to many children. In July of 2000, it was estimated that 8,000 children a day were being exposed to mercury in excess of Federal guidelines through their mandatory vaccines. Given the importance of vaccination in our overall public health strategy, it is imperative that the Department of Health and Human Services adequately addresses the concerns of families of whose children have possible vaccine-induced autism. The continued response from agency officials that ''there is no proof of harm'' is a disingenuous response. The lack of conclusive proof does not mean that there is no connection between thimerosal and vaccine-induced autism. What the lack of conclusive proof indicates is that the agency has failed in its duties to assure that adequate safety studies were conducted prior to marketing. Furthermore, in the last two decades, after determining that thimerosal was no longer ''generally recognized as safe'' for topical ointments, the agency did not extend their evaluation to other applications of thimerosal, in particular as a vaccine preservative.

One leading researcher made the following statement to the Committee in July of 2000: ''There's no question that mercury does not belong in vaccines.

''There are other compounds that could be used as preservatives. And everything we know about childhood susceptibility, neurotoxicity of mercury at the fetus and at the infant level, points out that we should not have these fetuses and infants exposed to mercury. There's no need of it in the vaccines.''

The Food and Drug Administration's (FDA) mission is to ''promote and protect the public health by helping safe and effective products reach the market in a timely way, and monitoring products for continued safety after they are in use.'' However, the FDA uses a subjective barometer in determining when a product that has known risks can remain on the market. According to the agency, ''at the heart of all FDA's product evaluation decisions is a judgment about whether a new product's benefits to users will outweigh its risks. No regulated product is totally risk-free, so these judgments are important. FDA will allow a product to present more of a risk when its potential benefit is great—especially for products used to treat serious, life-threatening conditions.''

This argument—that the known risks of infectious diseases outweigh a potential risk of neurological damage from exposure to thimerosal in vaccines—is one that has continuously been presented to the Committee by government officials. FDA officials have stressed that any possible risk from thimerosal was theoretical, that no proof of harm

existed. However, the Committee, upon a thorough review of the scientific literature and internal documents from government and industry, did find evidence that thimerosal did pose a risk.

Thimerosal used as a preservative in vaccines in likely related to the autism epidemic. This epidemic in all probability may have been prevented or curtailed had the FDA not been asleep at the switch regarding the lack of safety data regarding injected thimerosal and the sharp rise of infant exposure to this known neurotoxin. Our public health agencies' failure to act is indicative of institutional malfeasance for self-protection and misplaced protectionism of the pharmaceutical industry.

NATIONAL WAR PERMANENT TRIBUTE HISTORICAL DATABASE ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. UDALL of Colorado. Mr. Speaker, today, I am introducing legislation titled the ''National War Permanent Tribute Historical Database Act,'' that will help the Department of Interior and the Department of Veterans' Affairs keep track of the many important war memorials on public lands throughout our country. It would also provide a report to Congress to determine if there should be a permanent fund within the Treasury for the upkeep of these memorials.

The freedom we enjoy in the United States has not just been given to us. Men and women have made great sacrifices, some with their lives, to protect our way of life. We have erected memorials to honor these soldiers, sailors, and aviators and their valiant deeds. Unfortunately many of these memorials don't receive the care they deserve and have fallen into disrepair. These memorials may not be as large as those on the National Mall or Arlington National Cemetery but they are just as important and should be taken care of.

In 2000, Congress agreed to a resolution expressing the need for cataloging and maintaining public memorials. The National War Permanent Tribute Historical Database Act would follow through with this sense of Congress and take a first step by cataloging our public war memorials.

Mr. Speaker, as we honor America's men and women in uniform this Memorial Day, many of us will be thinking these soldiers who have recently been fighting in Iraq and Afghanistan. But the other conflicts America's service men and women have fought in should not be forgotten. These memorials remind people what their local men and women did to protect our country. By cataloging and reporting to Congress on the condition of all of our war memorials on public lands and by considering how to maintain them we make sure that our veterans are not forgotten. Passage of this bill would be a step toward renewing our commitment to honor our nation's veterans.

INTRODUCTION OF THE MEDICARE OUT-OF-POCKET SPENDING LIMIT ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. STARK. Mr. Speaker, I rise today to introduce the Medicare Out-of-Pocket Spending Limit Act of 2003. This legislation protects Medicare beneficiaries from potentially ruinous medical bills by ensuring they will never have to pay more than $2,000 out-of-pocket for Medicare services. It does so without limiting seniors' choice of physician and without forcing seniors to leave Medicare and join a private plan. In short, it is real Medicare reform, the kind of reform that seniors and people with disabilities want and need.

President Bush and many of my Republican colleagues portray Medicare as a disastrous program that is broken, bankrupt, and dumb. They think private insurers—the same ones who refused to cover seniors back in 1965 when Medicare was created—can do a better job than Medicare has done for the last 38 years.

More than 40 million seniors and individuals with disabilities know that President Bush and Congressional Republicans are wrong. They know that Medicare is a vitally important program that successfully protects some of the most vulnerable among us. They want us to strengthen Medicare, not undermine it. That is why I am introducing the Medicare Out-of-Pocket Spending Limit Act.

The bill I am introducing today provides an essential Medicare improvement for all Medicare beneficiaries. Today Medicare covers about 52% of seniors' health costs, leaving many to pay significant medical bills out of their own pockets. Medicare beneficiaries with chronic conditions or catastrophic illnesses face the greatest risk of potentially unlimited health costs. Most Medicare beneficiaries have incomes below $20,000 per year and cannot afford to spend a large share of their income on health care.

The Medicare Out-of-Pocket Spending Limit Act will offer seniors the security of knowing that they will never have to pay more than $2,000 out-of-pocket on Medicare services per year. Current and future Medicare beneficiaries will have the option of enrolling in this new, voluntary benefit at an affordable premium. Beneficiaries with incomes below 175 percent of the federal poverty level would pay reduced or zero premiums.

The benefits provided by the Medicare Out-of-Pocket Spending Limit Act are long overdue. In testimony before the Ways and Means Health Subcommittee this month, the Chairman of the Medicare Payment Advisory Commission identified the lack of a spending limit as a ''serious limitation of the Medicare benefit package.'' In January 2003, the National Academy of Social Insurance's Study Panel on Medicare and Chronic Care in the 21st Century recommended that Congress ''limit cost-sharing requirements by adding an annual cap on out-of-pocket expenditures for covered services.'' The Medicare Out-of-Pocket Spending Limit Act follows through on these expert recommendations.

Importantly, the Medicare Out-of-Pocket Spending Limit Act provides these improvements in traditional Medicare. Unlike the President's and the Congressional Republicans' plan to ''reform'' Medicare by ending it as a defined benefit for all beneficiaries, my bill will guarantee that elderly and disabled Americans will never be forced to give up traditional Medicare in order to get crucial benefits. Beneficiaries will be free to choose between the traditional Medicare program and private plans. But it will be a real choice, not coerced through the lure of more generous coverage. Seniors should never have to choose between the doctors they know and trust and the coverage they need.

This legislation is supported by beneficiary advocacy groups including: Families USA, the Center for Medicare Advocacy, the Alliance for Retired Americans, and the Medicare Rights Center. I urge my colleagues to join us in support of strengthening Medicare for all seniors and disabled Americans by cosponsoring the Medicare Out-of-Pocket Spending Limit Act.

Below is a more detailed summary of the legislation:

MEDICARE OUT-OF-POCKET SPENDING LIMIT ACT OF 2003—SUMMARY

This bill would improve Medicare for all beneficiaries by adding a new voluntary benefit to the traditional Medicare program. Seniors and disabled Americans electing this coverage would be protected from extraordinary out-of-pocket costs when they need medical care. The additional benefit—created under a new Medicare Part D—would have the following features:

Out-of-pocket limit. Beneficiaries enrolled in the new benefit would never pay more than $2,000 out-of-pocket per year for services covered under the traditional Medicare program. The out-of-pocket spending limit would be adjusted each year by the growth in average per capita spending under this new benefit.

Eligibility and enrollment. Beneficiaries entitled to Medicare Part A and enrolled in Part B would be eligible for the new benefit. Current Medicare beneficiaries would have a one-time six-month open enrollment period to elect this coverage. Otherwise, normal Medicare enrollment rules would apply.

Premiums. Premiums for the new benefit would be calculated in the same manner as Medicare Part B premiums (25 percent of estimated program costs), with a late enrollment penalty for beneficiaries who choose not to enroll during the open enrollment period.

Low-income beneficiaries. Beneficiaries with incomes up to 150 percent of poverty would be eligible for the new benefit with no additional premiums. Beneficiaries with incomes between 150 percent and 175 percent of poverty would be eligible for the new benefit with a sliding scale premium. No assets test would be used in determining eligibility for these additional low-income protections. These low-income benefits would be administered by the States but 100 percent federally funded.

Medicare+Choice. All Medicare+Choice plans would have to provide the out of-pocket spending limit benefit. Plans would be

paid a geographic- and risk-adjusted rate, based on projected national per capita costs of the out-of-pocket spending limit benefit in traditional Medicare.

CELEBRATING THE 50TH ANNIVERSARY OF THE INTERNATIONAL GEOPHYSICAL YEAR AND SUPPORTING AN INTERNATIONAL GEOPHYSICAL YEAR–2 IN 2007–08

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. UDALL of Colorado. Mr. Speaker, today I introduce legislation calling for a worldwide program of activities to commemorate the 50th anniversary of the most successful global scientific endeavor in human history—the International Geophysical Year of 1957–58. I am pleased that my colleague Representative EHLERS—the Chairman of the Environment, Technology, and Standards Subcommittee of the Science Committee—is joining me as an original cosponsor of this legislation.

Indeed, it is hard to imagine not commemorating the historic global undertaking that was the International Geophysical Year, popularly known and remembered as the IGY. Yet such may occur unless steps proposed in this resolution for an ''IGY–2'' in 2007–2008 are not taken soon.

The 60 nations and 60,000 scientists who participated in the IGY left an ongoing legacy that is beyond measure. Satellite communications, modern weather forecasting, modern natural disaster prediction and management, from volcanic eruptions to El Nino—they are all legacies of IGY scientific activities that girdled the globe and breached the space frontier.

The space age itself is a child of the IGY. The program of events included the launching of the first artificial satellites, Sputnik and Vanguard. The IGY also produced the path-breaking decision to set aside an entire continent—Antarctica—for cooperative study. This IGY program alone—which was permanently institutionalized by the Antarctica Treaty—made the year a scientific triumph. Six of my colleagues on the Science Committee recently returned from Antarctica and have testified to the ongoing organizational effectiveness and scientific payoff of this remarkable IGY legacy.

In a still broader context, the IGY marked the coming of age of international science. Globally coordinated activities that save millions of lives today—such as the campaigns to contain and find cures for SARS and AIDS—owe their inspiration and working model to the unprecedented number of scientists from throughout the world who banded together to implement the IGY. Scientific findings from thousands of locations, ranging from world research centers to remote field stations, were collected and organized by this global team. The result was an unprecedented range of discoveries for human benefit. The great British geophysicist Sydney Chapman, who helped conceive the IGY, called it ''the greatest example of world-wide scientific cooperation in the history of our race.''

My resolution calls for an ''IGY–2'' that would be even more extensive in its global reach and more comprehensive in its research and applications. After all, science never stands still. Its frontiers are continually expanding. The biological sciences, genetics, computer sciences, and the neurosciences, among others, have made tremendous advances worldwide during the half century since the IGY. At the same time, new integrative linkages are being established among mathematics, physics, the geosciences, the life sciences, the social sciences, and the humanities as well.

As a consequence, there is a coming together in the study of our planet and its diverse inhabitants whose potential scope and significance is only beginning to be perceived even among those directly involved. In addition to promoting research, IGY–2 would provide a stage for showcasing these new developments and a forum for presentation and discussion of their continually unfolding cultural as well as scientific significance.

Indeed, one of IGY–2's most important contributions would be to enhance public awareness of global activities that provide hope and example in an era when conflict and strife occupy the foreground of public policy and public attention. George Kistiakowsky, science adviser to President Dwight Eisenhower under whose presidency the IGY occurred, said at the time: ''Science is today one of the few common languages of mankind; it can provide a basis for understanding and communication of ideas between people that is independent of political boundaries and ideologies [and] that can contribute in a major way to the reduction of tension between nations.''

Those words spoken more than 40 years ago resonate with special significance today when the web of global ties among scientists is so much more extensive yet still largely unrecognized. We are catching a glimpse of its saving potential in the inspiring worldwide response of scientists and public health professionals to the SARS outbreak—a response inconceivable without the collaborative lines of communication established during the past half century. At a minimum, the work of these unsung heroes deserves greater recognition than it has received—and IGY–2 would do that.

Finally, Mr. Speaker, it is entirely fitting that the United States take the lead in launching an IGY–2 and that Congress provide the impetus. The IGY of 1957–58 was conceived in 1950 only a few miles from here, in Silver Spring, MD, at a dinner hosted by Professor James Van Allen and attended by scientist-friends from Europe, including Sydney Chapman. They discussed the International Polar Years that had been held at 50 year intervals—first in 1882, then in 1932. The next one was scheduled for 1982. Over a barbecue in Van Allen's backyard, these visionary scientists came up with the idea of accelerating the schedule to a 25–year interval, which would occur in 1957, and expanding its coverage to the entire globe, so as to take full advantage of rapid advances in research and instrumentation. They took their idea to governments and scientific organizations and they made it happen. Fittingly, James Van Allen won the Nobel Prize for discovery during the IGY of the radiation belts that bear his name.

Subsequently, in 1985, Congress passed a resolution calling for a year of globally coordinated space activity in 1992, to mark the simultaneously occurring 35th anniversary of the IGY and 500th anniversary of Columbus' voyage of discovery. The bipartisan resolution for this International Space Year, or ISY, was introduced by Senator Spark Matsunaga and endorsed by President Reagan. At the President's direction, the United States led a worldwide planning effort that culminated with the implementation of an ISY in 1992 that made major contributions to international scientific cooperation, notably in the field of global environmental monitoring.

So we have both scientific and Congressional precedent for the United States to take the lead internationally in calling for an IGY–2. I urge my colleagues to join me in promoting this initiative in support of modern science and the inspiration to our troubled planet that its global outlook can provide. I have no doubt that the contributions to humanity of an IGY–2 will be remembered with gratitude both in the near future and for generations to come.

HEALTHY FORESTS RESTORATION ACT OF 2003

SPEECH OF

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. STARK. Mr. Speaker, I rise in opposition to the House Republicans' so-called Healthy Forests Restoration Act.

This bill is more about restoring healthy profits for the timber industry, than protecting healthy forests for the American people. Given the devastating impact this bill will have on pristine public lands, a better title would be Leave No Tree Behind. That is exactly what will happen as logging companies are given a backdoor into our national forests and wilderness areas.

Of course, Republicans argue that this bill is about protecting rural communities from dangerous wildfires. Yet, there is nothing in their bill providing any help to small towns or homeowners for fire prevention. The Republicans only increase subsidies to timber companies to log forests well outside the so-called wildland-urban interface—even in wilderness and roadless areas—and not where fires pose the greatest threat.

You won't find many forestry experts who would tell you that timber companies are able to turn a profit harvesting diseased and insect prone trees. So Republicans have devised it so that the Forest Service will pay timber companies for their service by allowing them to cut down stands of healthy trees. There is nothing in this bill that prevents the harvested trees from being ancient old growth or redwoods for that matter.

The Republicans claim their bill is proenvironment. Yet, their bill cuts out the heart of the landmark National Environmental Protection Act. It exempts the Forest Service from doing a thorough analysis of alternatives to proposed logging projects. It even creates a new Federal program to assist private landowners in getting around the Endangered Species Act that protects fish and wildlife.

Now if after all of this, you thought you had recourse in the matter, think again. This Republican bill severely restricts the right of any citizen to appeal Forest Service decisions and even undermines the power of judges to overrule the agency's determinations. In fact, this

bill prohibits the Federal courts from halting any logging project until 45 days after it's begun.

In light of this dangerous assault on our environment and our democratic process, I urge my colleagues to vote down this bill and support the Democratic alternative. It protects our forests and wilderness areas from harmful logging. It upholds landmark environmental protections and the right of the American people, not just the timber industry, to have a say in the future of our public lands. And it puts money toward real and effective fire prevention around rural communities where it's needed most.

I urge my colleagues to stand up for our forests and vote ''no'' on the Republicans' sham Leave No Tree Behind bill.

INTRODUCTION OF ENVIRONMENTAL JUSTICE ACT OF 2002

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. UDALL of Colorado. Mr. Speaker, today I am again introducing the Environmental Justice Act of 2002. I am proud that my colleague Congresswoman HILDA SOLIS is once again joining me as an original cosponsor of this bill.

Representative SOLIS and I first introduced this bill last year, too late for consideration in the 107th Congress. Its reintroduction today reflects our continued concern about the way federal actions have had disproportionately adverse effects on the health, environment and quality of life of Americans in minority and lower-income communities.

Too often these communities—because of their low income or lack of political visibility—are exposed to greater risks from toxins and dangerous substances because it has been possible to locate waste dumps, industrial facilities, and chemical storage warehouses in these communities with less care than would be taken in other locations.

The sad fact is that in some eyes these communities have appeared as expendable—without full appreciation that human beings, who deserve to be treated with respect and dignity, are living, working, and raising families there.

This needs to give way to policies focused on providing clean, healthy and quality environments within and around these communities. When that happens, we provide hope for the future and enhance the opportunities that these citizens have to improve their condition.

Our bill would help do just that. The bill essentially codifies an Executive Order that was issued by President Clinton in 1994. That order required all federal agencies to incorporate environmental justice considerations in their missions, develop strategies to address disproportionate impacts to minority and low-income people from their activities, and coordinate the development of data and research on these topics.

Although federal agencies have been working to implement this order and have developed strategies, there is clearly much more to do. We simply cannot solve these issues overnight or even over a couple of years. We need to ''institutionalize'' the consideration of these issues in a more long-term fashion—which this bill would do.

In addition, just as the current policy was established by an administrative order, it could be swept away with a stroke of an administrative pen. To avoid that, we need to make it more permanent—which is also what this bill would do.

It would do this by statutorily requiring all federal agencies to: Make addressing environmental justice concerns part of their missions; develop environmental justice strategies; evaluate the effects of proposed actions on the health and environment of minority, low income, and Native American communities; avoid creating disproportionate adverse impacts on the health or environment of minority, low-income, or Native American communities; and collect data and carry out research on the effects of facilities on health and environment of minority, low-income, and Native American communities.

It would also statutorily establish two committees: The Interagency Environmental Justice Working Group, set up by the Executive Order to develop strategies, provide guidance, coordinate research, convene public meetings, and conduct inquiries regarding environmental justice issues; and a Federal Environmental Justice Advisory Committee, appointed by the President, including members of community-based groups, business, academic, state agencies and environmental organizations. It will provide input and advice to the Interagency Working Group.

In a nutshell, what this bill would do is require federal agencies that control the siting and disposing of hazardous materials, store toxins or release pollutants at federal facilities, or issue permits for these kinds of activities to make sure they give fair treatment to low-income and minority populations—including Native Americans. The bill tells federal agencies, ''In the past these communities have endured a disproportionate impact to their health and environment. Now we must find ways to make sure that won't be the case in the future.''

For the information of our colleagues, here is a short analysis of the bill:

ENVIRONMENTAL JUSTICE ACT

Summary: This bill would essentially codify a Clinton Administration Executive Order which directed a number of federal agencies and offices to consider the environmental impact of decisions on minority and low-income populations.

Background: On February 11, 1994, President Clinton issued Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.'' The President also issued a corresponding Memorandum to all federal departments and agencies further explaining the order and how the agencies should implement it to address environmental justice issues. The Order and Memorandum called for the creation of an interagency working group to provide guidance on identifying disproportionate impacts on the health and environment of minority and low-income populations, develop strategies to address such disproportionate impacts, and provide a report on that strategy. Since the order was promulgated, the affected agencies have developed reports and strategies.

Need for the Bill: Although federal agencies and offices have been complying with the Executive Order, disproportionate impacts related to human health and the environment still exist for many minority and low-income communities. These impacts must be addressed over the long term. In addition, due to the lack of resources and political clout of many of these impacted communities, vigilance is required to make sure that disproportionate impacts are reduced and do not continue. As the effort to date has been primarily administrative based on the presidential order and memorandum, these strategies need to be incorporated into the routine functioning of federal agencies and offices through federal law.

The bill—

Requires federal agencies and offices to: include addressing environmental justice concerns into their respective missions; conduct programs so as not to create disproportionate impact on minority and low-income populations; include an examination of the effects of such action on the health and environment of minority and low-income populations for actions that require environmental analyses under the National Environmental Policy Act; create an environmental justice strategy to address disproportionate impacts of its policies and actions, and conduct and collect research on the disproportionate impacts from federal facilities.

Creates an Interagency Environmental Justice Working Group to develop strategies, provide guidance, coordinate research, convene public meetings, and conduct inquiries regarding environmental justice issues.

Creates a Federal Environmental Justice Advisory Committee composed of members of community-based groups, business, academic, state agencies and environmental organizations which will provide input and advice to the Interagency Working Group.

HATTIE MCDANIEL STAMP RESOLUTION

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. CUMMINGS. Mr. Speaker, I rise today to introduce a resolution urging the Citizen's Stamp Advisory Committee and the United States Postal Service to issue a commemorative stamp to honor Hattie McDaniel. I urge my colleagues to support this resolution.

Ms. McDaniel was the first African American to receive an Academy Award in 1939 for Best Supporting Actress for her performance as Mammy in ''Gone With The Wind.''

Hattie McDaniel was born June 10, 1895 in Wichita, Kansas. Hattie McDaniel was a pioneer in the entertainment industry and helped open doors for other black entertainers. She was the first black performer to star in her own radio program, ''Beulah,'' which later became a television series. Ms. McDaniel had other significant roles including playing Queenie in ''Show Boat,'' Aunt Tempy in ''Song of the South,'' and appearing in ''The Little Colonel'' with Shirley Temple.

Hattie McDaniel died of breast cancer on October 2, 1952. She was the first African American to be buried in Los Angeles's Rosedale Memorial Park Cemetery.

Mr. Speaker, I am pleased that the Citizen Stamp Advisory Commission is currently considering a proposal to issue a Hattie McDaniel stamp, which is an outstanding tribute to an accomplished actress and American.

PERSONAL EXPLANATION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. UDALL of Colorado. Mr. Speaker, because of a family emergency I was unable to be present on Monday for three recorded votes.

Had I been present, I would have voted as follows: Rollcall No. 192, H. Con. Res. 166—Expressing the sense of Congress in support of Buckle Up America Week, I would have voted ''yes''; rollcall No. 193, H.R. 1018—To designate the building located at 1 Federal Plaza in New York, New York, as the ''James L. Watson United States Court of International Trade Building,'' I would have voted ''yes''; rollcall No. 194, H. Con. Res. 147—Commemorating the 20th Anniversary of the Orphan Drug Act and the National Organization for Rare Disorders, I would have voted ''yes.''

TRIBUTE TO MRS. EVELYN BILLINGSLEY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. DUNCAN. Mr. Speaker, Mrs. Evelyn Billingsley was the head custodian at Blue Grass Elementary School in Knoxville, Tennessee. On May 19, 2003, she arrived at her final day of work in a white, stretch limousine.

A red carpet led the way into the halls of the school Mrs. Billingsley had swept, mopped and waxed for more than two decades. A crowd of adoring fans lined the carpet and sang, ''When you leave, we'll be so blue. Miss Evelyn, we love you.'' After 23 years of service, Mrs. Billingsley has retired.

Affectionately called Miss Evelyn by her Blue Grass Elementary family, this hard-working lady is described by students and teachers alike as the glue that held the school together. I am told it was rare not to find Miss Evelyn in the school, even on weekends or snowdays.

Evelyn Billingsley never became rich or famous from the work she did, but she has touched the lives of countless people, and she will not only be remembered fondly at Blue Grass Elementary School, but she will be deeply missed. I have no doubt she has offered the children there lessons in life and love as she roamed the halls and cleaned the classrooms.

Knoxville, Tennessee, is a better place because of her, and I believe this Nation is, as well.

I would like to call to the attention of my colleagues and other readers of the RECORD the article which ran on May 20, 2003, in the Knoxville News-Sentinel concerning this outstanding American.

HONORING JOHN FERDINANDI, JR.

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize John Ferdinandi Jr., posthumously awarded the 2002 Tranny ''Citizen of the Year'' award. His wife, Sally Ferdinandi, will accept the award on behalf of her late husband at the California Transportation Foundation's 14th Annual Tranny Award Ceremony on May 21, 2003 in Sacramento, California.

Throughout Mr. Ferdinandi's life, he was an active and positive force in the community. He was the founder of Fresno Area Residents for Rail Consolidation (FARRC), and was a vital member of the committee responsible for drafting the Expenditure Plan for the extension of Measure C, Fresno County's half-cent sales tax for transportation improvements. John was also Chairman of the Mayor's Task Force on the Rail Committee, as well as a member of the Council of Fresno County Governments Committee.

Mr. Ferdinandi was nominated for the Tranny award by the Fresno County Council of Governments at the recommendation of its Board of Directors. The Board sought to recognize him for his tireless advocacy work for transportation improvements in the Fresno area. Although John passed away on January 26th of this year, his contributions to Fresno County and the surrounding communities will remain. He was greatly admired and respected by all who came to know him. We are truly grateful for everything he has accomplished.

Mr. Speaker, I urge my colleagues to join me in recognizing John Ferdinandi, Jr. for his significant and steadfast efforts for the betterment of the greater Fresno community.

A TRIBUTE TO DAVID ''DAVE'' LEMAY

HON. RANDY ''DUKE'' CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. CUNNINGHAM. Mr. Speaker, I rise today to express my gratitude for the exceptional services which Scripps Ranch High School Principal David LeMay has performed for the students of San Diego City Schools and for our great nation. Dave's leadership, his promotion of excellence, his positive involvement in student activities, and his deep commitment to educational excellence and sound educational practices make him a truly admirable American and one deserving of recognition by this body. It is for his outstanding dedication and his thirty-three years of service to the students of San Diego that I wish to congratulate and thank Principal Dave LeMay.

Dave's leadership history did not begin with an administrative position in the San Diego City Schools or even in the classroom. It began with his service as a United States Army officer in 1966. Dave served our country in the Vietnam War; and was awarded the Bronze Star in recognition of his courage, bravery, and valor.

Following military service, Dave completed his education at San Diego State University; and, in 1970, he began teaching history at O'Farrell Junior High in San Diego. Dave's instructional expertise was soon recognized, and he was selected as a district demonstration teacher for comprehensive and gifted certificated staff. After eight years of classroom teaching, Dave became an Administrative Intern at Midway Continuation High School. A short six months later, he was appointed Vice Principal of Garfield Independent Learning Center. In 1978, he became Vice Principal of Wagenheim Junior High School, a position he held for the next two years prior to becoming Vice Principal at Samuel Gompers Secondary School in 1980. At Gompers Dave was instrumental in instituting an Advanced Placement tutorial program for underrepresented students.

Dave's administrative rise continued in 1984, when he was appointed Vice Principal of Point Loma High School. He held that position until the fall of 1986 when he became Principal of Montgomery Junior High School. Three years later he was appointed Principal of Crawford High School, a position he held for seven years. At Crawford Dave was instrumental in restructuring second language education to include a Newcomer Center which served immigrant children. Dave also won School Board approval for a School-to-Work bungalow building project. The first bungalow was completed in 1992. Since that time, eight additional bungalows have been built by students enrolled in construction technology.

Since 1996 Dave has been the principal of Scripps Ranch High School. Under his stewardship, the school has been honored by the United States Department of Education as a National Blue Ribbon High School of Excellence. Additionally, Dave has been instrumental to the success of my Technology Fair for high school students. Each year more than two-thousand students from high schools throughout my Congressional District attend the event at Scripps Ranch High School. The purpose of the ''Tech Fair'' is to encourage students to study math and science and to go college. The program has been so successful that it has been modeled by the San Diego Science Alliance and by other Congressional Representatives' Offices.

Truly, Dave is a consummate administrator. He has a warm, easy manner with people. He is a great listener. He is quietly effective at making positive changes. He demands the best by modeling the best. Dave is hard-working, task-oriented, organized and efficient. It is hard to conceive of a principal who is more knowledgeable of or more involved in a school than Dave LeMay. In addition to his pursuit of educational excellence, Dave is fervent in promoting other aspects of student life such as drama, the arts, music, and athletics. He seldom misses a school event.

Principal David LeMay is the longest-serving high school administrator at San Diego City Schools. Dave's remarkable contributions to the students of San Diego speak to his intellect, his professional drive, and his relentless pursuit of excellence. After thirty-three years, Dave will retire on June 30, 2003. I urge my colleagues to join me in wishing him the very best success as he starts a new chapter in his life, and I hope that he will always be blessed with fair winds and following seas.

A SPECIAL TRIBUTE TO THE AMERICAN FOREST & PAPER ASSOCIATION FOR ITS COMMITMENT TO INCREASED PAPER RECOVERY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. GILLMOR. Mr. Speaker, I would like to commend the members of the American Forest & Paper Association (AF&PA) for committing to meet an increased paper recovery goal by the year 2012. This effort illustrates the paper industry's understanding of our natural resources and its desire to safeguard the environment by decreasing the amount of paper that is sent to our nation's landfills.

In 2000, 232 million tons of solid waste was produced in the United States, taxing our landfills, peoples' pocketbooks, and our environment. In order to sustain economic growth and simultaneously promote environmental protection, some hard choices needed to be made—and were. Since 1987, paper recovery has increased 97 percent. This dramatic increase can be traced to an industry set goal on paper recovery, as well as the investment of more than $15 billion in new equipment. With the help of action-oriented communities across the country, AF&PA and its member companies have more than exceeded the U.S. Environmental Protection Agency's target of 35 percent recycling by 2005 as part of its ''Resource Conservation Challenge.''

Achieving higher levels than were they are now will not be easy, but it is important since every bit counts. That is why I am pleased that AF&PA is reaching out to form partnerships with the Environmental Protection Agency, various cities and office building managers across the country to help increase public awareness about the benefits of recovering paper for recycling. I hope that this public-private partnership will raise awareness and encourage larger, future voluntary recycling efforts in paper recovery.

Although I acknowledge progress has been made in paper recycling, more can and should be done. As demand for recovered fiber continues to grow for both domestic and export markets, additional recovered fiber supply will be needed—of note, more than 38 percent of the industry's raw material comes from recovered fiber. We should ensure that all citizens continue to play a meaningful role in safeguarding the environment, encouraging fiber and sustaining economic growth, and preserving our natural resources through recycling used paper.

Environmental progress requires that the private sector and government work together to get things done and these efforts provide an opportunity for more Americans to recycle in their homes, offices and schools. To the end that good progress has been made, I applaud AF&PA, but am reminded that success is a continual forward journey. Recovering more fiber for recycling at U.S. paper mills through recycling challenges, model programs and community partnerships helps ensure that the paper industry will continue to be a strong participant in the American economy, a responsible steward of the environment and a leader in efforts to utilize all available resources in the production of recycled content products. For that we should all be thankful.

TRIBUTE TO THE 33RD PRESIDENT OF THE UNITED STATES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. SKELTON. Mr. Speaker, let me take this means to bring to your attention an article that was written by Jeff Joiner and appeared in the May 2003 addition of Rural Missouri magazine. The article, ''Where's Harry'', gives a brief history of President Harry S. Truman's life from his birth in Lamar, MO, until his death in Independence, MO. It also explains the various places you can learn about the history of President Truman, most notably the Truman Library in Independence, MO.

Mr. Speaker, I wish to share this article with the rest of the chamber.''

WHERE'S HARRY?

A TOUR OF WESTERN MISSOURI OFFERS A GLIMPSE AT HARRY TRUMAN'S LIFE AND THE RURAL BACKGROUND THAT SHAPED ONE OF THE 20TH CENTURY'S MOST IMPORTANT LEADERS

(By Jeff Joiner)

The voice of Harry S Truman welcomes a group of children as they step into the Oval Office. Of course the office is a reproduction and Truman's voice recorded but the kids, on a tour of the Truman Presidential Museum and Library in Independence, instantly recognize the most famous office in the world. Truman's Oval Office, decorated as it was when he occupied it from 1945 until 1953, contains one artifact the kids find most interesting, a television with a tiny screen set in a large wooden cabinet. A tour guide tells the group Truman was the first president to have a TV in the Oval Office.

A visit to the Truman Library in Independence is a reminder of some of the most volatile history of the 20th century. As president, Truman witnessed the end of World War II and the beginning of the rebuilding of Europe and Japan. But he also faced the expansion of communism, which led to confrontation in Berlin and the bloody Korean War, and devised a policy to contain communism known as the Truman Doctrine. Often loudly criticized for unpopular decisions, like firing Gen. Douglas MacArthur, Truman dealt with his heavy responsibilities straight on, without flinching or laying blame.

Many historians credit Truman's plainspoken manner and upfront ''The Buck Stops Here'' frankness to his rural upbringing. Born in Lamar and raised on the family farm near Grandview, Truman came from humble beginnings. And once his presidency was finished, he and wife, Bess, returned to their home at 219 North Delaware in Independence where they lived only a few blocks from where Truman's political career began in the Jackson County Courthouse 30 years earlier.

A real understanding of Truman and how he faced the problems of post-World War II America can't be appreciated without looking at where the man came from. Fortunately for travelers Truman's home state offers many places to see and touch the history that shaped the president.

A BIRTHPLACE IN LAMAR

Truman was born May 8, 1884 in a small, white frame house in Lamar where he and his parents lived for 11 months before moving to Harrisonville and later Grandview to the north. On the day his first child was born, John Truman planted an Austrian pine tree and today, 119 years later, that tree still lives in the front yard of the house, which has been the Harry S Truman Birthplace State Historic Site since 1959. The house, managed by the Missouri Department of Natural Resources, recreates a typical midwestern American home at the dawn of the 20th century.

Truman was the first person to sign the guest book on the day the historic site was dedicated and typical of his down-to-earth style, he wrote, ''Harry Truman, Independence, Mo., retired farmer.''

A LIFE BEGUN ON A FARM

The Truman family eventually moved to a 600–acre farm near Grandview in 1887 where they lived for three years before moving to Independence. Harry Truman often worked on the farm as a youngster and was responsible for the operation after his father's death in 1914 until he joined the military three years later. An Army captain, Truman led an artillery battery during World War I.

What today is called the Truman Farm Home is part of the Harry S Truman National Historic Site administered by the National Park Service, which includes the Truman Home 30 miles away in Independence. A shopping complex called Truman Corners now surrounds what's left of the family farm, which includes 5 acres of land and the farmhouse, which is not open to the public. The farm is located near the intersection of Highway 71 and Blue Ridge Boulevard.

THE SUMMER WHITE HOUSE IN INDEPENDENCE

The centerpiece of the Truman National Historic Site is the home that Harry and Bess occupied as a young married couple in 1919. Though he lived for many years in Washington, D.C., first as a United States senator, vice president and then 33rd president of the United States, Truman always considered the house in Independence home. Even during his presidency it was known as the Summer White House.

Following the inauguration of Dwight Eisenhower as president in 1954, Harry and Bess returned to Independence where he was occupied with the planning and construction of his presidential library. Until late in life, Truman was known for taking long walks around Independence, a fact commemorated by the city on its street signs in the Truman Historic District which feature a silhouette of the former president, cane in hand, walking.

Truman lived in the house on Delaware until just before his death on Dec. 26, 1972 at the age of 88. Bess continued to live in their home for another decade and died there. In her will she left the home to the United States and it was dedicated as a national historic site in 1983.

The Truman Home, located on the corner of Truman Road and Delaware Street, is open for tours by National Park Service rangers. Tickets can be purchased at the site visitor's center on Main Street in downtown Independence.

A LIBRARY WORTHY OF A PRESIDENT

The crown jewel of Truman's Missouri is the presidential library which documents in letters and historic papers his legacy as the first president to step into the dark waters of the Cold War, a period that continued until the collapse of the communist government of the United States' chief adversary, the Soviet Union, in 1991.

The library details in a series of exhibits Truman's political rise and his presidency including his whistle stop train campaign and upset re-election in 1948. It also documents the dark, early history of the Cold War. A painful reminder of that era is the Purple Heart medal and angry letter sent to Truman by the father of a U.S. soldier killed in Korea. The medal and letter were found in Truman's desk in his office after his death.

Other Truman historic spots include the Jackson County Courthouse in Independence which maintains the office and courtroom of Presiding County Court Judge Truman and the Elms Hotel in nearby Excelsor Springs where the president holed up during election night in November 1948 when he, and most of the nation's press, expected Thomas Dewey to defeat him.

By visiting any number of spots in Missouri frequented by the ''Man from Independence,'' people can appreciate how a simple, rural beginning shaped world history.

NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

SPEECH OF

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. SWEENEY. Mr. Speaker, I rise today, as a co-chair of the Correctional Officers Caucus, to honor the men and women working in our correctional facilities. On a daily basis, correctional personnel perform a wide range of jobs, from the routine to the extraordinary. Their work often goes unnoticed, but the efforts of correctional officers and employees were never more apparent than on September 11, 2001.

Following the horrific terrorist attacks, the New York Correction Department immediately sent personnel to assist in rescue operations. Department staff controlled traffic congestion enabling emergency vehicles to reach Ground Zero and assisted firefighters by delivering fuel to needy fire trucks. They built a small ''tent city'' equipped with heat, electricity, telephone and fax lines to provide additional support services for the temporary morgue at Bellevue Hospital. The Department also conducted security clearances and issued thousands of photo ID cards to secure access to Ground Zero and other restricted areas.

Mr. Speaker, in the aftermath of the terrorist attacks, correctional officers and employees were deployed 24 hours a day, seven days a week, to assist in various rescue and recovery efforts.

We have introduced H. Con. Res. 180 to recognize National Correctional Officers and Employees Week, in gratitude for the courage and professionalism of the New York City Correction Department in the face of tragedy, as well as the daily work of all correctional officers and employees who perform their jobs with dedication and resolve.

Mr. Speaker, it is a privilege to honor our Nation's correctional officers and employees. I urge my colleagues to recognize these men and women by supporting this important resolution.

TESTIMONY OF BOB MURRAY ON THE KYOTO PROTOCOL

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. POMBO. Mr. Speaker, on May 13, 2003 the House Committee on Resources held a field hearing in St. Clairsville, OH on the proposed Kyoto Protocol's impact on coal dependent communities in Ohio.

Congressman BOB NEY, who lives in St. Clairsville, did a marvelous job locating excellent witnesses representing organized labor, industry and local government. Among them was Mr. Robert E. ''Bob'' Murray, who a very prominent leader within America's coal mining industry. I encourage my colleagues to read this testimony that puts a human face on how the Kyoto Protocol will impact working men and women in the Ohio Valley and throughout the United States.

STATEMENT OF MR. ROBERT E. MURRAY BEFORE THE COMMITTEE ON RESOURCES OF THE HOUSE OF REPRESENTATIVES FIELD HEARING ON THE ''KYOTO GLOBAL WARMING TREATY'S IMPACT ON OHIO'S COAL DEPENDENT COMMUNITIES,'' ST. CLAIRSVILLE, OHIO, MAY 13, 2003

Chairman Pombo and Congressman Ney, my name is Robert E. Murray, and I am President and Chief Executive Officer of Murray Energy Corporation (''Murray Energy''), which employs about 2,500 persons in the most economically depressed areas of the United States. Our Subsidiaries, American Energy Corporation, Maple Creek Mining, Inc., and The Ohio Valley Coal Company, employ about 1,400 persons in the tri-State Ohio River Valley area, and nearly 1,000 people here in Belmont County.

Studies at the Pennsylvania State University have shown that up to eleven (11) secondary jobs are created for each coal industry position that we provide, thus making our Companies responsible for almost 17,000 jobs in this tri-State area, and nearly 12,000 positions in Eastern Ohio.

But, this is not where our tremendous beneficial impact on this region stops. Our mining employees typically earn twice the average household wage in Ohio and two-and-one-half times the median wage for this area. American Energy Corporation's Century Mine here in Belmont County is the largest single economic development in Ohio in recent years, representing an over $300 million investment in our area.

The subject of the ''Kyoto Global Warming Treaty'' is a human issue, not an environmental matter, to me, Chairman Pombo and Congressman Ney. You see, I know the names of many of the people whose jobs, standards of living, and lives would be destroyed in this area if the United Nations' ''Kyoto Global Warming Treaty'' were ever adopted by the United States.

This region is desperate for good paying and well-benefited jobs. Our people just want to earn a reasonable living with honor and dignity. Our young people want to stay in the area and have good employment. Many times grown men and women have broken down and cried in my office when I told them that we had a job for them. They know that, with the high pay and excellent benefits provided by coal mining, they can build the lives of their dreams, be with their families, and retire with dignity.

But, this region came close to being economically devastated, as the Administration of Bill Clinton and Albert Gore signed the United Nations' Kyoto Protocol on so-called global warming and for years urged its passage by the United States Senate. Wisely, the Senate would not ratify their draconian treaty. Passage of the United Nations Kyoto Protocol would have eventually eliminated the U. S. coal industry and the 17,000 primary and secondary jobs for which my Companies are responsible in this tri-State area. Indeed, the Clinton/Gore Administration had a motto that they were going to ''dial out coal.''

Fortunately, President George W. Bush condemned the United Nations' Kyoto Protocol soon after he took office and announced that our Country would no longer be a part of this flawed agreement. On March 13, 2001, President Bush said:

''As you know, I oppose the Kyoto Protocol because it exempts eighty (80) percent of the world, including major population centers, such as China and India, from compliance, and would cause serious harm to the U.S. economy.''

President Bush has chosen an entirely different way to address the climate issue, one based on research, technology, and voluntary action. This path will encourage economic growth, not stifle it. It will allow greater use of our Nation's most abundant and lowest cost energy source, coal, rather than devastate the industry and this area.

The President has received much pressure from radical environmentalists and no-growth advocates in the U.S., as well as the international community, to reverse his decision. But, even the most ardent of supporters of the Protocol, the members of the European Community, who are using this issue to gain economic advantages over the U.S. for their products in the global marketplace, are having difficulty achieving the mandatory carbon dioxide emissions reductions that they set for themselves. And, it is important to point out that the Kyoto Treaty has yet to go into force.

Very importantly, there is no scientific consensus that so-called global warming is even occurring. Moreover, there is no scientific evidence that human activities are responsible.

As an engineer, I have followed the so-called global warming matter for more than two decades. The best analysis that I have read is that prepared by Professor Bjorn Lomborg, an academic who is a former Greenpeace member and devoted environmentalist. Dr. Lomborg has compared the projected changes in the world's temperatures for the next one hundred years—both with the Kyoto Treaty and without. Dr. Lomborg has concluded that:

If we observe the Kyoto Treaty by enforcing all of its provisions, by the year 2100 (when our new granddaughter will be 97 years old), the temperature is expected to increase by 1.92 degrees Celsius.

Without implementation of the Kyoto Treaty, the temperature will reach that level by 2094 (when our granddaughter will be 91 years old), six (6) years sooner than with the Protocol.

In 2010, compliance with the Kyoto Treaty will cost $350 billion per year, increasing to nearly one trillion dollars annually by 2050. To put this into perspective, Professor Lomborg calculates that, for $200 billion per year, every human being on Earth could have clean drinking water and sanitation, saving two million lives each year.

Mandatory restrictions on carbon dioxide emissions, whether imposed by the United Nations' Kyoto Protocol or by restrictions such as those currently being proffered by some Senators, would have a devastating effect on the communities in this tri-State area. The Kyoto Treaty would require a reduction of greenhouse emissions to seven percent (7%) below 1990 levels by 2008, notwithstanding that there is no scientific evidence that proves that such reductions are beneficial or necessary. Our Nation would have to reduce emissions by close to forty percent (40%) from current levels in just five (5) years to meet the draconian Kyoto Treaty goals. We applaud President Bush for recognizing the Kyoto Treaty for what it is, a political agreement pushed by the Clinton/Gore Administration with no regard for America's economy or citizens, and particularly those in this area.

Regarding the economic devastation of the ill-conceived Kyoto Treaty, the most recent

study by the Heartland Institute showed that if emissions had to be reduced to 1990 levels—and that is not as low as the Kyoto Treaty would have required—the Ohio state government would lose a minimum of $1.2 billion in revenue annually, and consumers and businesses in our State would pay $3.2 billion and $32 billion, respectively, more for federal and state programs to reduce carbon dioxide emissions.

Furthermore, based on the Heartland Institute study, each household in Ohio would pay over $8,000 per year for just the reduction to 1990 levels, and reaching the Kyoto Treaty targets would cost every Ohio household $14,000 annually. Clearly, these numbers prove the folly of even thinking about agreeing to mandatory carbon dioxide controls in any form.

As for coal, there would be very little production of this fuel in the United States under a Kyoto type regime. The Energy Information Administration of the U. S. Department of Energy, analyzed the affects of a Kyoto Treaty on the energy markets and determined that it would cause a sixty-seven (67%) reduction in National coal production levels by 2010, and a 90% drop by 2020.

In short, by 2020 there would be no coal industry in Ohio, from which eighty-seven percent (87%) of the State's electricity is generated. Furthermore, coal fired electricity costs about one-third (⅓) that from natural gas fired generation, and is even more economical than this over nuclear generated electricity.

A better way to address the climate issue is by the plan outlined by President Bush in February, 2002, which, as I have stated before, is based on science, research, technology, efficiency, and voluntary actions. Such an approach will determine whether carbon dioxide emission reductions are beneficial or necessary, or not. If carbon dioxide reductions are proven to be necessary, we will be on our way. If they are not, we will still be moving well down the road to the more efficient use of coal with new technologies.

There currently are several initiatives in Washington that will directly keep coal in the energy mix. On the Congressional front, the U.S. House of Representatives has just passed H.R. 6, the Energy Policy Act of 2003. This legislation includes two important provisions that we need to get advanced clean coal technologies into existing coal fired electricity generating plants and to build new ones. H.R. 6 also includes authorization for basic coal research and for the President's $2 billion Clean Coal Power Initiative, which will demonstrate advanced clean coal technologies.

The aforementioned two provisions are also included in the Senate Bill, S. 14, that is now being debated on the Senate floor. But, S. 14 includes a third important element that was left out of the House passed legislation. The Senate Bill will include very important production and investment tax credits for a limited number of plants to encourage rapid use of new advanced clean coal technologies. It is important, Mr. Chairman and Congressman Ney, that you support the inclusion of these tax provisions in the final bill that goes to the President's desk.

Another important initiative that the Administration has announced is the FutureGen Program, which is a $1 billion, ten (10) year, demonstration project to create the World's first coal-based, zero emissions, electricity and hydrogen power plant. The plant will capture carbon dioxide emissions and will be coupled with carbon sequestration so that it is literally a zero emissions plant. Over the long term, coal can be the major source for hydrogen energy for our Country.

Mr. Chairman, not only is the coal industry opposed to mandatory reductions of carbon dioxide emissions, we are also opposed to programs that would require mandatory reporting on emissions, as well as schemes that would lead to carbon dioxide emissions trading. The voluntary approach that the industry is supporting will be the best way to preserve Ohio and tri-State area jobs and hold down electric rates for our households and our factories that must compete in the global marketplace.

The coal industry in the United States, at this time, is being economically devastated. Practically all of the major eastern U.S. coal producers are unprofitable or are currently in bankruptcy. This is largely the result of the depressed economy, huge amount of construction of new natural gas fired electricity generating units during the Clinton/Gore years, and importation of cheap coal from South America. This is the worst possible time for some in Congress to be advocating any mandatory requirements regarding carbon dioxide emission measuring, reductions, or trading.

Mr. Chairman and Congressman Ney, we commend you for holding this field hearing on the devastating effects that any attempt to put restrictions on carbon dioxide emissions would have on the people and communities in this tri-State area of the Ohio River Valley. As I stated previously, the Kyoto Treaty and proposed carbon dioxide emission reductions is a human issue with me, rather than environmental, as I know the names of many of the individuals in this area whose jobs, lives, and quality of life would be destroyed under the Kyoto Treaty or any other program for mandatory reductions in carbon dioxide emissions.

WAR IS ALWAYS SHOCK AND AWE

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. OWENS. Mr. Speaker, Secretary Rumsfeld's announcement a few months ago that the war in Iraq would be won by the application of ''shock and awe'' was not the revelation of a new and innovative weapon. Shock and awe has always been the dominant feature of war. Indeed war itself is inevitably traumatic; when there is death and killing there is automatic and excruciating shock and awe. Part of the power of the early witch doctors was derived from the grotesque mask they wore. Roman armor was designed not merely to protect soldiers but also to frighten the enemy. Viking ships had monstrous images carved on their masts to terrify their victims before attacking. Hitler's Luftwaffe planes from the air with bombs slaughtered the Polish cavalry charging forward on their obsolete white horses. The Russians employed a monster tank that made even the cold blooded Nazis cringe with fear. And, of course, nuclear war is the ultimate shock and awe. When we announce shock and awe as a great accomplishment there is a danger that we will grossly mislead our youth. There is nothing glorious and splendid about shock and awe. War is at best a necessary evil. The war against Iraq is an unnecessary evil. The following Rap poem seeks to expose the horror of Shock and Awe:

SHOCK AND AWE

See the devil's claw—
Thunder lightning death!
American Satan certified,
Fiery werewolf's paw,
Welcome the witch's law.
Shock and Awe!
God gave Lucifer
The outrage sign—
No more floods,
Generals in charge this time.
Military hi-tech games
Smoke and flames
Tomahawks never error
Now the screech of terror!
O say can you hear
Like hysterical chickens
Enemy families scrambling
With their foreign fear.
Target with the drone
Then melt the ancient stone;
Ignore the pope
Burn infant hope.
Apologize for the human stew:
Brains fried
Glands crisp dried
Ears toasted
Thighs roasted
Blood and skin
For savage sausage;
Barbecue ageing sages
Too old to flee,
Dracula's banquet served free.
America stands by what it said—
Every Iraqui orphan will be fed;
Salute the red white and blue—
Liberation will surely come true.
With Shock and Awe
We decree new orders—
We reserve the right
To draw new borders.
Bagdad is burning,
For Damascus
We are yearning,
On the table Tehran too,
Salute almighty red white and blue.
Color the sky red
Pray for the collateral dead,
Ingest civilization raw,
Taste unpolluted steaming
Shock and Awe!
Entice priests away from popes,
Humiliate polyglot UN dopes;
Shove Paris onto the track,
Watch Moscow at our back;
Ambitious Shiites should cross no border;
Shock and Awe
Is the new world order!
See the devil's claw
Fiery werewolf's paw
Welcome the witch's law.
Shock and Awe!
Shock and Awe!

HEALTHY FORESTS RESTORATION ACT OF 2003

SPEECH OF

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Ms. ESHOO. Mr. Speaker, this bill isn't about wildfire prevention. Fire prevention is being used as an excuse for allowing massive commercial logging in our national forests.

Although its proponents say otherwise, the bill allows more than just ''thinning'' of small trees and brush that are at risk of burning. It allows logging of the largest, most fire-resistant trees which are found in areas of the forest that are the least likely to burn.

Timber companies want special access to these commercial-grade trees and the isolated sections of forest where they flourish. Under the pretext of ''fire prevention,'' this bill rewards the industry with that access.

When this proposal was unveiled by the White House last summer, James Connaughton, the Chairman of President Bush's Council on Environmental Quality, gave the only frank description of the plan to come from the Administration. He said:

''[T]he best place to get commercial grade timber is in the context of these thinning projects. So why not go there? And that's really what this [initiative] is about.''

So the ''thinning'' is simply a Trojan horse to allow massive commercial logging in our forests.

If we're serious about stopping the destructive fires that destroy homes and threaten lives, we need to focus on the borders between forests and populated areas. Clearcutting in isolated areas of our forests, as the bill allows, will not protect lives or property. The slash created by clearcutting undermines forest health and increases the risk of damaging wildfires.

The Miller Substitute focuses on where the greatest threat exists . . . the border between forests and population centers. At the same time, it preserves our ecologically valuable old growth forests. If wildfire prevention is the goal, then the Miller Substitute is the best way to get there. We need to defeat this bill and adopt the Miller substitute.

CONGRATULATING NICOLE BORDALLO NELSON ON HER GRADUATION FROM THE UNIVERSITY OF SAN FRANCISCO

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Ms. BORDALLO. Mr. Speaker, I rise today to congratulate Ms. Nicole Bordallo Nelson for completing her undergraduate degree in Psychology from the University of San Francisco, for which commencement ceremonies will take place on May 24, 2003.

The Psychology Department at the University of San Francisco is a rigorous and highly regarded program. I am proud of Nicole for her tremendous achievement and for her hard work in order to earn this prestigious degree. However, it is her compassion for other people that is most commendable. Besides her many long hours of study and her hard work as a research assistant with the University of San Francisco Psychology Department, Nicole spent much of her free time volunteering for Bay Area homeless rescue missions. It is no surprise that she has excelled at the college level, and I have no doubt that she will continue to serve the community as she pursues a career in the Psychology.

Before college, Nicole attended the Academy of Our Lady of Guam, a Catholic school for young women on Guam, and later graduated from St. Paul's School. In addition to her coursework and hours of community service, she excelled as an athlete in soccer and basketball.

Today I join Nicole's parents, Deborah Josephine Bordallo and James Earl Nelson in congratulating Nicole on her accomplishment. They were always supportive and responsible parents to Nicole, their only daughter, and they have every reason to be proud of her achievement. But most of all, I want to thank Nicole for making me one very proud grandmother. I know that her grandfather, the late Governor Ricky Bordallo, must be smiling down on her today. God bless you, Nicole, we love you.

COERCED STERIZATION INVESTIGATED IN SLOVAKIA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. SMITH of New Jersey. Mr. Speaker, on May 8, the Senate gave its consent to protocols providing for the accession of seven new members to the North Atlantic Treaty Organization. I have supported Slovakia's admission to NATO and am heartened that the post–1998 democratic and human rights progress in Slovakia made the Senate vote possible.

Slovak leaders continue to demonstrate in many concrete ways their commitment to the oftcited but not always visible ''shared values'' that are central to the trans-Atlantic community. I was moved to read that several Slovak leaders, including Speaker of the Parliament, Pavol Hrusovsky, with whom I met last year, Laszlo Nagy, Chairman of the Parliament's human rights committee, and the Foreign Ministry have spoken out so clearly and strongly on behalf of the Cuban dissidents victimized by Castro's recent sweeping crackdown on human rights activists.

At the same time, I have continuing concerns about the Slovak Government's ongoing investigation into allegations that Romani women were sterilized without proper informed consent.

Mr. Speaker, I know these allegations are of concern to many members of the Helsinki Commission, one of whom recently sponsored a Capitol Hill briefing concerning the sterilizations. I also discussed the issue with Slovak Ambassador Martin Butora and Deputy Minister Ivan Korcok in March. Eight Helsinki Commissioners joined me in writing to Prime Minister Dzurinda to express our concern, and U.S. Assistant Secretary for Human Rights, Democracy, and Labor, Lome Craner, commented on this abhorrent practice at his hearing on the State Department's annual human rights report.

I was encouraged by the Prime Minister's substantive and sympathetic response, and I commend his commitment to improve respect for the human rights of Slovakia's Romani minority.

At the same time, I am deeply troubled by one particular aspect of the government's response to the reports documenting that sterilizations occurred without proper informed consent.

Shortly after the release in January of a lengthy report on sterilization of Romani women, a spokesperson for the ministry responsible for human rights was quoted in The New York Times as saying: ''If we confirm this information, we will expand our charges to the report's authors, that they knew about a crime for a year and did not report it to a prosecutor. And if we prove it is not true, they will be charged with spreading false information and damaging the good name of Slovakia.''

In other words, if the government's investigation does not find evidence of coerced sterilization, they intend to make those who dared make the allegation pay a price. And if the government's investigation does confirm the allegation, they will still make those who made the allegation pay a price. I believe this is what is meant by the old expression, ''Damned if you do, and damned if you don't.'' This is really an outrageous threat, and it's hard to believe that an official responsible for human rights would have made it.

Mr. Speaker, I had hoped that this was an unfortunate misstatement and not really reflective of the Slovak Government's policies. I had hoped that the fact that almost every newspaper article, from Los Angeles to Moscow, about coerced sterilization in Slovakia has mentioned this threat would lead the Slovak Government to issue some kind of clarification or retraction. Unfortunately, not only has there been no such clarification or retraction, but the threat has now been repeated—not once, but at least twice.

First, in mid-March, the Ministry of Health issued a report based on its own investigation into the allegations. (A separate government investigation continues.) Naming a particular Slovak human rights advocate by name, the ministry complained that she had refused to cooperate with police investigators and this could be considered covering up a crime. Essentially the same point was made by Slovakia's Ambassador to the OSCE in early April, ironically during a meeting on Romani human rights issues.

Mr. Speaker, these threats raise serious doubts about the breadth and depth of the Slovak Government's commitment to get at the truth in this disturbing matter. Can the Slovak Government really expect women who may have been sterilized without consent to come forward and cooperate with an investigation with a threat like this hanging over them? A few brave souls may, but I believe these threats have had a substantial chilling effect on the investigative process.

In fact, it is not unusual for those whose rights have been violated to confide their stories only upon condition of anonymity. And while I realize there has been a very serious effort in Slovakia to improve the professionalism of the police and to address past police abuses against Roma, I certainly can't blame Romani women if they are unwilling to pour their hearts out to their local constables. Simply put, the police have not yet earned that trust.

I hope the Slovak Government will set the record straight on this and remove any doubt that the days when human rights activists could be sent to jail for their reports is over. Doing so is critical for the credibility of the government's ongoing investigation.

RECOGNITION OF ARDELL KIMMEL

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Ardell Kimmel of Jefferson County, Illinois. Ardell was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Ardell received this honor for his lifelong service to others. He served his country in

World War II as a United States Navy Gunnery Mate. After the war he earned a degree in agriculture. Throughout his life he has shared with high school and college students his knowledge of agriculture. He has been involved with the 4-H Club, Southern Illinois Agri-Business Club, King City Dinner Club, and American Legion Post 141. Ardell is actively involved at Central Christian Church where he serves in numerous ways. He and his wife, Wilma, have also raised two daughters and one son.

I want to congratulate and thank Ardell for all he has done and will continue to do for the people in his community. He is a saint to all who know him and is deserving of this prestigious honor.

CONGRATULATIONS TO KENNARD CLASSICAL JUNIOR ACADEMY FOR RECEIVING A ''GOLD STAR'' AWARD

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. CLAY. Mr. Speaker, I rise to honor excellence personified by Kennard Classical Junior Academy, in the St. Louis Public Schools District.

In April the school was named one of 15 elementary schools in the State of Missouri to receive the ''Gold Star'' award for academic excellence. I proudly enter their name into the CONGRESSIONAL RECORD as part of a national celebration of their achievement.

The feat by staff and students at Kennard Classical Junior Academy is top flight, considering that some 35 highly competitive public schools competed for the awards, for the 2002–2003 academic year.

Chosen by a panel of school administrators and other educators from across the state, all applications were evaluated and winners were selected during the month of April. The 15 schools were formally honored May 7 at a forum in Jefferson City, MO, the State Capital.

To be eligible for the award, schools had to meet academic performance criteria established by the U.S. Department of Education for the ''No Child Left Behind—Blue Ribbon Schools'' program.

Established in 1991, the Gold Star Schools program is sponsored by the Missouri Department of Elementary and Secondary Education, with financial support from State Farm Insurance Companies, Inc.

In the program, elementary and secondary schools are recognized in alternating years.

Mr. Speaker, there is something extra special about Kennard Classical Junior Academy. While the school sits in South St. Louis, in the neighboring 3rd Congressional District, I readily share my joy in this achievement because my daughter, Carol, is a student at Kennard and shares in her school's success as well.

Mr. Speaker, I submit to you that success in education can be achieved at all levels, and sometimes where it is least expected.

As we celebrate 15 Gold Star schools in the state of Missouri, with three in my district alone, I also hope and plan for the day that the majority of schools in the state achieve ''Gold Star'' status.

At that time we can happily raise the academic bar again, for the next generation of students. If the students of today are a barometer, then the students of the future will most assuredly defy the odds against them and take their place in the modern world as well-educated leaders and decision-makers solving future problems.

As leaders in government, it is our responsibility to provide them the tools, the gifted teachers and the inspiration to achieve against great odds for even greater successes.

RECOGNITION OF REV. LEROY DUDE

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. SHIMKUS. Mr. Speaker, I rise before you today to recognize Rev. Leroy Dude of Jefferson County, IL. Leroy was recently inducted into the Senior Saints Hall of Fame of Jefferson County.

Leroy received this honor for his lifelong service to others. For 45 years Reverend Dude served as pastor of West Salem Trinity United Methodist Church. He performed many baptisms, weddings, and funerals; as well as mowing the lawns of others, helping to paint barn roofs, and planting trees. Leroy also has served as trustee and clerk of Shiloh Township. He and his late wife raised five children.

I want to congratulate and thank Leroy for all he has done and will continue to do for the people in his community. He is a saint to all who know him and is deserving of this prestigious honor.

CONGRATULATIONS TO PIERRE LACLEDE ELEMENTARY SCHOOL FOR RECEIVING A ''GOLD STAR'' AWARD

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. CLAY. Mr. Speaker, I rise to honor excellence personified by a public school in my district—Pierre Laclede Elementary School, in the St. Louis Public Schools District.

In April the school was named one of 15 elementary schools in the State of Missouri to receive the ''Gold Star'' award for academic excellence. I proudly enter their name into the CONGRESSIONAL RECORD as part of a national celebration of their achievement.

The feat by staff and students at Pierre Laclede Elementary School was one of three schools in my district so honored. Some 35 public schools competed for the awards, for the 2002–2003 academic year.

Chosen by a panel of school administrators and other educators from across the State, all applications were evaluated and winners were selected during the month of April. The 15 schools were formally honored May 7 at a forum in Jefferson City, MO, the State capital.

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IN HONOR OF THE DEDICATION OF THE SHIRLEY GRALLA GIRLS' ELEMENTARY SCHOOL AT BE'ER HAGOLAH INSTITUTES

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. ACKERMAN. Mr. Speaker, I rise today to honor Shirley Gralla, a life-long supporter of Jewish education around the world, on the dedication of the Shirley Gralla Girls' Elementary School at Be'er Hagolah Institutes in Brooklyn, NY.

As a child in the early 1920s, Shirley Gralla came to America from Eastern Europe in search of the ''American Dream.'' As an adult, she has dedicated her life to making that dream a reality for thousands of Jewish immigrant children. With her husband Milton, Shirley helped transform Be'er Hagolah Institutes into the largest school in the United States designed to attract and educate Jewish children from the former Soviet Union. The Center, which was established in 1979, educates nearly one thousand students from kindergarten through grade 12, and has a policy of turning no child away for financial reasons. In fact, most of the student body receives a full or partial scholarship.

Shirley and Milton have endowed and named schools in Odessa, Ukraine; Kiev, Ukraine; Moscow, Russia, and Jerusalem, Israel. She has initiated a family sponsored endowment of a floor at the Albert Einstein College of Medicine in New York City, for the study of brain disorders. More recently, Shirley helped to create the Brandeis University ''Genesis'' Program, which invites Jewish teens from around the United States to participate in an enriching Judaic and academic experience at the university's campus in Waltham, Massachusetts. For these and other achievements, Shirley Gralla has been named a Fellow at Brandeis University and a Doctor of Humane Letters by Yeshiva University.

When the need for new facilities at the Be'er Hagolah Institutes became obvious ten years ago, Shirley and Milton rose to the challenge.

Together with Joseph Gruss and the Reichmann family of Toronto, they worked to fund the construction of magnificent new accommodations for the children. On May 28, 2003 Shirley Gralla's commitment to the school will be recognized when the girls' elementary school will be dedicated in her name.

I commend Shirley Gralla for her continued dedication to the field of education and her commitment to improving the lives of Jewish immigrant children. I ask my colleagues in the House of Representatives to please join me in congratulating Shirley Gralla on the dedication of the Shirley Gralla Girls' Elementary School at Be'er Hagolah Institutes.

COMMEMORATING THE 25TH ANNIVERSARY OF LOWELL NATIONAL HISTORICAL PARK

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. MEEHAN. Mr. Speaker, I rise today to commemorate the silver anniversary of the Lowell National Historical Park.

Twenty-five years ago, President Jimmy Carter signed into law former Congressman Paul Tsongas' legislation to establish the Lowell Park. At the time, Lowell was a struggling community with an uncertain future. Nevertheless, Tsongas knew that as the cradle of America's Industrial Revolution, Lowell was a dynamo waiting to be harnessed.

Today, the Lowell Park receives nearly three-quarters of a million visitors a year and its revitalized and reused mills are home to high technology companies, a state university, and housing for all income levels.

The Lowell Park has told the story of our Nation's industrial history using world class museum exhibits and innovative programs and events such as canal boat tours; a recreated weave room and interactive exhibits at the Boott Cotton Mills Museum; the Mill Girls and Immigrants exhibit; the annual Lowell Folk Festival, the largest free folk festival in the nation, now in its 17th year; and numerous other heritage-based special events.

Furthermore, as a pioneer in the National Park System (NPS), Lowell has been a model for telling America's industrial history across the Nation, in such places as Dayton, OH, where stories are being told about the history of aviation; in the Upper Peninsula of Michigan about copper mining; in the Monongehela Valley of Pennsylvania about the steel industry; and in Scranton, PA, about railroading.

At the local level, the Lowell Park's contribution to the area's economic development has been immeasurable, and nationally, it is a treasure of America's rich industrial heritage.

The Lowell Park staff has been highly innovative, winning state and national recognition and awards. Here are just a few examples of their achievements:

Partnering with the University of Massachusetts Graduate School of Education, the Lowell Park boasts one of the most successful educational programs in the Park Service, with over 65,000 participating school children per year. The National Parks Foundation and the NPS have awarded their Partnership Award to this innovative heritage education program.

Working closely with the city, the park has guided the rehabilitation of nearly 350 historic buildings in the park's Preservation District, improving the downtown and adjacent neighborhoods. These efforts have been repeatedly recognized, most recently with a National Honor Award from the National Trust for Historic Preservation and a statewide award for ''Visionary Leadership in Community Preservation.''

Most of the five and a half miles of canals—a National Engineering Landmark—are now accessible to the public via walkways and interpretive signage. The Park's Canalway Program has won a national ''Excellence on the Waterfront Award'' from the Waterfront Center in Washington, DC.

Its community programming through the Mogan Cultural Center reaches out to underserved populations and over three dozen ethnic communities, earlier generations of whom worked in textile mills.

The community has built upon the presence of the Lowell National Historical Park by attracting museums, sports facilities, an arts community and major festivals to the Preservation District, making Lowell truly a ''Destination City.'' The National Trust for Historic Preservation designated Lowell one of its first ''Dozen Distinctive Destinations'' in 2000.

New projects are underway in three major mill complexes—Lawrence, Boott and Dutton Yarn—that are generating 400 new market rate apartments and condominiums because Lowell is now a place to which people want to move. Over a dozen other historic buildings in the national park's Preservation District are also in the process of rehabilitation at this time, signaling that the marketplace has responded to the Federal investment.

Congratulations to the Lowell National Historical Park for reaching this auspicious milestone. Its 25th anniversary is as much a celebration of Lowell's rebirth, as it is a stark reminder of the inherent value of preserving our history for future generations.

HONORING THE LIFE AND WORK OF FORMER SPEAKER OF THE PENNSYLVANIA HOUSE OF REPRESENTATIVES, MATTHEW J. RYAN

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 13, 2003

Mr. GERLACH. Mr. Speaker I rise today in support of H. Res. 178, a resolution honoring the life and work of Matthew J. Ryan, the former Speaker of the Pennsylvania House of Representatives.

The basic facts of Speaker Ryan's career in the Pennsylvania House were that he served for over 40 years and that he was the longest serving Speaker in the chamber's history. But as is often the case, the simple facts do little to explain the man or his impact on the lives of his fellow Pennsylvanians-including my own.

Speaker Ryan was an almost legendary figure in Pennsylvania politics. He was a powerful man, to be sure. But more to the point, he was a man who had the trust and confidence of his colleagues on both sides of the aisle. He was universally respected for his nonpartisan style of presiding over the Pennsylvania House, his parliamentary skill and his formidable debating abilities. And, not least among his qualities, he was a tireless booster of Pennsylvania and her citizens.

I came to know Speaker Ryan when I served under him for two terms in the Pennsylvania House in the early 1990s. Speaker Ryan earned the devotion of freshmen classes session after session because he was accessible, he was genuinely interested in helping new members learn the ropes, and because he was committed to helping all members do their best to better the Commonwealth of Pennsylvania.

Like many of my colleagues in the Pennsylvania congressional delegation, I am personally indebted to Speaker Ryan for his mentorship, his leadership and, above all, his friendship. I shall miss him greatly.

TRIBUTE TO THE HONORABLE RUTH GALANTER

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Ms. HARMAN. Mr. Speaker, I rise to honor a close friend, a remarkable public servant and courageous advocate for the people of California—the Honorable Ruth Galanter. Ruth is retiring from the Los Angeles City Council after 16 years of service, where her insights, legislative acumen, and keen intellect will be sorely missed.

Mr. Speaker, there is no magic formula for determining what makes a good public servant, but in Ruth Galanter all the ingredients for success were there. Ruth brought her intelligence, wit, and political skills to bear on behalf of her constituents, her community and countless important causes. And all the people of Los Angeles benefited from her ability to get things done.

It has been my great pleasure to work with Ruth on many of these causes. Just last month, Ruth and I participated in a ceremony with the Army Corps of Engineers commemorating the installation of tidal gates along the Ballona Creek in my district. The gates will help preserve scarce wetlands, restore critical habitat, and provide recreational and educational opportunities for the community for years to come.

The project, more than 10 years in the making, is a perfect illustration of a top-notch public servant at the peak of her powers. Ruth Galanter's ability to focus on a particular outcome; to build and nurture diverse coalitions; to bring together all levels of government in support of a common goal; her fundamental and unwavering commitment to a healthy environment—these are the gifts that she unselfishly shared with the community.

Over the years, Ruth's work resulted in the preservation of the Bolsa Chica Wetlands and the El Segundo Dunes, and she spearheaded efforts to clean up Santa Monica Bay and conserve the Ballona wetlands. She led the effort to renovate Venice Beach and preserve the Venice Pier.

She has promoted smart growth and sustainable development, advocated for a regional airport system and high-speed rail, and tirelessly promoted water conservation and recycling.

While this chapter of Ruth Galanter's public service may be coming to a close, she leaves

behind a proud and lasting legacy. The crowning achievement of an environmentalist is to leave the earth a little cleaner, a little greener and a little brighter than when they started. Ruth Galanter has accomplished this and more.

BURMA MUST STOP ITS HUMAN RIGHTS VIOLATIONS IMMEDIATELY

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. CAPUANO. Mr. Speaker, I rise today to inform my colleagues of the despicable attack on a key democratic figure in Burma, Aung San Suu Kyi, by Than Shwe and his brutal military regime.

A few days ago, the political arm of Than Shwe's regime, the Union Solidarity and Development Association (USDA), launched an attack against Aung San Suu Kyi's motorcade as she was traveling to give a speech about freedom in Burma. After stopping the motorcade and wielding machetes and sticks, USDA members beat on the doors of the motorcade and attempted to steal cameras and other items.

This is only one of many recent occasions in which the USDA has harassed and intimidated Aung San Suu Kyi, her political opposition group called the National League for Democracy (NLD), and their supporters. In order to interfere with her efforts to speak about democratization in Burma, the regime has threatened her supporters with water hoses on fire trucks and blared loud music so that others cannot hear her speeches. Authorities have repeatedly deterred and prevented her supporters from attending her speeches by threatening them with arrest, and have turned back several busloads full of people.

I find it appalling that Than Shwe's soldiers would threaten one of the world's great freedom fighters with blunt weapons. Aung San Suu Kyi and the NLD are the legitimately elected leaders of their country-they won 82 percent of the seats in parliament in an internationally recognized election, even though the regime refuses to recognize the results. As an elected Representative of the citizens of Massachusetts, I simply cannot stand by while men like Than Shwe so grossly violate the very principles upon which this House was built.

Than Shwe continues to terrorize the population of Burma. He and his regime have forced much of the population into modern-day slave labor, locked up about 1,400 political prisoners including students, monks, nuns, and 18 members of parliament, and recruited an astounding 70,000 child soldiers—far more than any other country in the world. Perhaps most disturbing, our own State Department's Bureau of Democracy, Rights, and Labor conducted an impressive investigation into rapes in Burma that confirmed the regime is using rape as a weapon of war. As we learned from Bosnia, using rape as a weapon is a war crime, and Than Shwe and his cronies should be brought to justice.

Most importantly, Burma's regime has proven that its words cannot be taken seriously. It has denied the use of rape as a weapon, stated that is has no child soldiers, and refuses to acknowledge the detention and torture of political prisoners. For this reason, it should not be surprising that Than Shwe has ignored the promise he made over a year ago to enter into a dialogue with Aung San Suu Kyi, facilitated by the United Nations, aimed at a transition to freedom and democracy. Instead, he has flaunted the good-faith efforts of the United Nations Special Envoy to Burma, Razali Ismail, and by extension, the entire United Nations General Assembly.

I urge my colleagues to join me in condemning these recent attacks and urge the State Department's Bureau of Democracy, Rights, and Labor to register our condemnation of the regime at the highest levels.

TRIBUTE HONORING SHARON COOK OF NAPOLEON, MICHIGAN

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. SMITH of Michigan. Mr. Speaker, I rise today to honor Sharon Cook, an outstanding educator from Napoleon, Michigan, who is retiring after 31 years of teaching.

Sharon graduated from Napoleon High School in 1965 and attended Western Michigan University, where she majored in English and earned her K–8 teaching degree. She also earned a Master's of Education Degree from Eastern Michigan University. After teaching in the elementary school for a number of years, Sharon transferred to the Middle school, where she taught Math and Language Arts.

In addition to her classroom responsibilities, she has coached girl's track, Basketball, and cheerleading for both football and basketball. Sharon has also served as Yearbook and Newspaper advisor, as well as Service Squad and Class Advisor. She has also coached Michigan Mathematics League teams, reaching state level competition in 1987.

As an educator, Sharon Clark realizes the importance of helping young teachers establish themselves in the classroom and has served as a Mentor Teacher to newly hired teachers at Napoleon.

Perhaps most important is Sharon's dedication to community service. For many years, she has served as Student Council Advisor and encouraged her students to be active in many community projects. With her help, students in Napoleon have collected food for Thanksgiving Food Baskets, conducted Penny Wars for Christmas Giving, Angel Trees for children of prisoners, and most recently, packages for our armed service men and women currently serving in Operation Freedom in Iraq.

In a time when highly qualified teachers who motivate are so important, pleased to honor this oustanding educator on the occasion of her retirement. Sharon has dedicated 31 years in service to the students of Napoleon Community Schools and the community at large.

STUDENT LOAN FORGIVENESS FOR PUBLIC ATTORNEYS

HON. DAVID SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. SCOTT of Georgia. Mr. Speaker, I rise to introduce the Prosecutors and Defenders Incentive Act.

Throughout the country, District Attorneys are finding it increasingly difficult to recruit and retain qualified and experienced attorneys. Recent law school graduates face difficult choices regarding their legal careers. While a starting salary at a private law firm now often exceeds $100,000, the average starting salary in a district attorneys office is approximately $35,000.

With undergraduate and law school loans frequently amounting to $100,000, aspiring public attorneys face a crippling debt burden that drives them to other career choices. This financial burden likely hits minority students even harder and makes their decisions about a public service career that much more difficult. A system of continual turnover severely impact on law enforcement and the ability to ensure justice.

Due to the increasing fiscal constraints faced at the state and local level, public officials are unable to raise salaries to a competitive level. More than ever, America needs an effective justice system. The Department of Justice has recognized that public defenders and prosecutors should have access to student loan forgiveness programs as an important means of reducing staff turnover.

Under my legislation, a recently-recruited public attorney would enter a written agreement that specified that he or she would remain employed as a prosecutor or public defender for a required period of service of not less than 3 years, unless involuntarily separated from employment. If the attorney is involuntarily separated from employment on account of misconduct, or voluntarily separates from that employment before the end of the period specified in the agreement, the individual would be required to repay the amount of any benefits received. Successive agreements could be made to continue the loan payments until the maximum amount authorized is reached.

Under the proposal, the Secretary of Education would make the loan payments for the attorney for the period of the agreement if the funds were made available through appropriations. Students loan repayments would not exceed $6,000 for any borrower in any calendar year or a total of $40,000 in the case of any borrower. This legislation is supported by the National District Attorneys Association.

I hope my colleagues will join me by supporting and cosponsoring this legislation.

TRIBUTE TO THE STUDENTS FROM FRANKLIN HIGH SCHOOL IN PORTLAND, OREGON

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. BLUMENAUER. Mr. Speaker, on April 15, 2003 students from Franklin High School

in Portland, Oregon captured first place in the 2003 Unisys Corporation Prize in the Online Science Education competition, administered by the American Association for the Advancement of Science (AAAS).

Working with the Oregon Museum of Science and Industry (OMSI), the Franklin High School team placed above nine other entries, all of which were charged with conducting scientific inquiry on flight and presenting their findings on the Internet.

This contest is part of a national science project sponsored by AAAS, the Franklin Institute Science Museum, and Unisys Corporation in affiliation with the Science Learning Network. The competition allows students to learn about science and technology while raising public awareness of the need for improved science education while fostering relationships between community museums and local students. Each group of students entering the competition is partnered with a local museum to conduct scientific experiments and create a Web site.

The team from Franklin High School explored flight through several projects—from participating in a teleconference with NASA's Johnson Space Center to conducting a glider design competition. The gliders were built with the help of software which allowed the students to adjust wing length, angle, nose weight, and a variety of other factors on a ''virtual glider'' to see which designs would fly. Their efforts were shared via the Internet with students and teachers from across the country.

Fifty-one students from Franklin High School participated in this competition: Alisa Bayona, Camille Buckles, Ryan Buckmier, Carlos Camargo-Ciriaco, Trisha Cates, Dara Chan, Sarah Combs, Dustin Conant, Miguel Couto, Itzia De Anda, David Galloni, Suzanne Hansen, Brandon Harris, Jack Healy, Yadira Herrera, Kenneth Hughes, Josh Kizaway, Melissa Larkin, Brandon Lewis, Jesse Mckenzie, Joshua Pangelinan, Ben Pharis, Kendall Stout, Jessica Strom, Ryan Waltz, Jason Yu, Tim Crowell, Angelina Dudley, Donald Fitzjarrell, Candyce Harris, Sean Johnson, Kashius Lewis, Ryan Nate Lewis, Kandie Madden, Ryan Manansala, Bnttni Mccomb, Will Mullen, Jackie Myers, Mike Owens, Ben Pharis, Lynea Price, Whitney Ramirez, Jessica Reitan, Sara Ruecker, Oleg Shcherbina, Austin Stoner, Efrain Tapia, Lisa Trump, Chris Wiseman, Jasmine Woodfork-Moore, Liliya Zaytseva.

TRIENNIAL REVIEW

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. RUSH. Mr. Speaker, yesterday marked the third month anniversary since the Federal communications Commission, FCC, voted to approve its controversial Triennial Review decision and still no written order has been issued by the Commission. I think many of us in this Chamber find it incredible that our troops invaded Iraq and ousted Saddam Hussein in less time than it takes for the FCC to write an order on which it has already agreed. This delay leaves an important segment of our economy and its employees in legal and economic limbo.

Mr. Speaker, the Triennial Review offered the FCC the unique opportunity to boost the nation's economy and not only save jobs—but create jobs as well. The Commission, however, responded to the challenge by issuing a ruling that is contradictory—largely deregulating broadband on one hand while, on the other, continuing the enormous regulatory burden of requiring large local phone companies to lease their lines at below cost rates to competitors.

In conclusion, the FCC has succeeded in creating uncertainty in the marketplace, and uncertainty on Wall Street typically converts to financial disaster. The order that is now being written at the FCC will consist of several hundred pages of regulatory detail. And as we know when dealing with the Federal bureaucracy, the devil is most definitely in the detail. I urge the Commission and its staff to finish its work on the Triennial Review order as quickly as possible so we can begin the tedious legal process of examining these details. Let us not forget that the jobs of thousands of hard working men and women, and the renewed health of our Nation's economy, are at stake.

PORT SECURITY IMPROVEMENTS ACT OF 2003

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. OSE. Mr. Speaker, today, I rise to introduce a bill entitled the ''Port Security Improvements Act of 2003.'' I am pleased to have five other original co-sponsors of this bi-partisan legislation, including: JOHN TIERNEY, who is the Ranking Member of the Government Reform Subcommittee which I chair; BILL JANKLOW, who is the Vice Chairman of my Subcommittee; and JANE HARMAN, who ably represents the Port of Los Angeles.

The tragic events of September 11, 2001 shook the confidence of the U.S. government and its citizens in the Nation's security. On November 19, 2001, the President signed the Aviation and Transportation Security Act. This law established ''emergency procedures'' for the Federal Government to issue interim final regulations without the usual opportunity for public notice and comment, as provided in the Administrative Procedure Act. To ensure Congressional and public input into the regulatory decisionmaking process, the Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, which I chair, held a November 27th hearing entitled ''What Regulations are Needed to Ensure Air Security?''

Congress then turned its attention to port security. On November 25, 2002, the President signed the Maritime Transportation Security Act. This law similarly provided for some interim final regulations without any public notice and comment but did not establish deadlines for their issuance. To provide Congressional and public input into the regulatory decisonmaking process, my Subcommittee held an April 24, 2003, hearing entitled ''What Regulations are Needed to Ensure Port Security?''

The U.S. maritime system includes more than 300 ports with more than 3,700 cargo and passenger terminals. The vast maritime system is particularly susceptible to terrorist attempts to smuggle personnel, weapons of mass destruction, or other dangerous materials into the U.S. And, terrorists could attack ships in U.S. ports. A large-scale terrorist attack at a U.S. port would cause widespread damage and seriously affect our economy.

To date, Congress has provided extensive Federal funding to fully ensure air security. In contrast, Congress has not provided sufficient Federal funding to fully ensure port security.

The witnesses at my Subcommittee hearing made several thoughtful recommendations, including: (a) the urgency for the Department of Homeland Security to issue a regulation governing a standardized ''smart'' common Transportation Worker Identification Credential; (b) the need for some standardization of security requirements for each U.S. port, each facility in a U.S. port, and each vessel entering a U.S. port; and, (c) the need for an additional significant Federal investment in port security. Currently, the U.S. Customs Bureau collects $15.6 billion in duties on commodities entering the U.S. through marine transportation. My bill directs a portion of these duties toward port security enhancements. In addition, my bill sets deadlines for issuance of regulations governing transportation security cards, and requires regulations that include a national minimum set of standard security requirements for ports, facilities, and vessels.

To understand the logic for dedicating a portion of Customs duties, let's look at the Port of Los Angeles. It is the busiest port in the U.S. and the seventh busiest in the world. It encompasses 7,500 acres. In 2002, Custom duties collected in this port accounted for 32 percent of all Customs duties collected in all U.S. seaports. However, since passage of the Maritime Transportation Security Act, this port has only received a small fraction of what it needs for port security enhancements and a substantially inadequate share of the funding distributed to date relative to its importance in the commerce of this country.

Since America's ports are crucial to our economic well being, it is essential that we find the right balance between increasing port security while not impeding the flow of commerce and trade. As a Republican, I am sensitive to the costs of excessive government regulation. But, in a post September 11th world, I realize that we must take additional precautions to protect our fellow citizens and our economy. We need to make sure that our ports are safe. I am not convinced that they are safe today.

The Port Security Improvements Act will ensure that America's ports receive the security upgrades they need. This legislation links customs duties collected in our ports to investments in greater security at these ports. All of us recognize the tremendous importance that international trade plays in our economy.

RECENT COURT DECISIONS IN GUATEMALA SERIOUSLY UNDERMINE HUMAN RIGHTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. LANTOS. Mr. Speaker, I was deeply disturbed to learn that an appeals court in

Guatemala decided last week to overturn the conviction of Colonel Juan Valencia Osorio, the man convicted by a lower court of being the ''intellectual author'' of the murder of Myrna Mack, a well-known Guatemalan anthropologist. Before her murder on September 11, 1990, Myrna Mack had been conducting research on the massive displacement and destruction of rural indigenous communities which resulted from the Guatemalan military's counterinsurgency tactics and ''scorched earth'' policies that they employed during that country's 36-year-old civil war.

The appellate court also upheld the acquittals of General Augosto Godoy Gaitán and Colonel Juan Guillermo Oliva Carrera, who were accused of having masterminded, along with Colonel Valencia, the assassination of Myrna Mack. Thus, as a result of the appellate court's decision, the intellectual authors of Myrna Mack's murder remain at large thirteen years after the killing, and justice continues to be denied to her family and friends.

Mr. Speaker, this is a matter of special concern because of the fact that the officers who were just acquitted were members of the Presidential Security Guard (Estado Mayor Presidencial—EMP), a unit originally created to provide security for Guatemala's president, vice-president, and their respective families. Since its establishment, however, the EMP has been repeatedly implicated in some of Guatemala's most high-profile human rights abuses, including the 1998 murder of Bishop Juan Gerardi. It is important to note that General Godoy and Colonels Oliva and Valencia served as high-ranking officials in the EMP at the time of Bishop Gerardi's assassination.

It is my sincere hope, Mr. Speaker, that Guatemalan authorities will vigorously pursue justice in Myrna Mack's case, wherever it may lead, and I applaud key U.S. officials for continuing to urge strongly that the Guatemalan government strengthen the rule of law in that country and strip high-ranking military officers of the impunity that they apparently now enjoy.

CONGRATULATING PRESIDENT CHEN SHUI-BIAN OF TAIWAN

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. HINCHEY. Mr. Speaker, I rise today to honor President Chen Shui-Bian of Taiwan as he celebrates three years in office.

For more than fifty years the United States and Taiwan have had a valued cross-pacific relationship. One million Americans of Taiwanese descent live in the United States and twenty nine thousand Taiwanese students attend American universities.

Taiwan and the US share close economic ties. In the last half century, Taiwan has grown to become our seventh largest trading partner.

Taiwan, however, is more than an economic ally. It has offered unwavering support in our efforts to confront terrorism. Taiwan's democratic success is also clear. It heeds its people's choice and turns over power after elections. It allows and encourages its people to participate in deliberations on their country's future.

In the wake of the SARS outbreak, it is imperative that Taiwan's twenty three million people are allowed to participate in the World Health Organization's efforts to counteract this contagion. This can be achieved by granting Taiwan observer status in the WHO.

Taiwan and President Chen have been great allies and friends to the American people. I congratulate the people of Taiwan and President Chen on their many achievements.

MISUNDERSTANDING IN THE MATTER OF A CO-SPONSORSHIP

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. MCINNIS. Mr. Speaker, I would like to correct a mistake for the record regarding a Member listed as an original co-sponsor on my bill, H.R. 1904. The gentleman from Virginia, Mr. SCOTT, was mistakenly added as an original co-sponsor to my bill, although he did not ask to be a co-sponsor of this bill. Yesterday, I made a unanimous consent requested to remove him as a co-sponsor, but the request could not be granted because the report on H.R. 1904 had already been filed. I thank Mr. SCOTT for his understanding in this matter.

RUNAWAY, HOMELESS, AND MISSING CHILDREN PROTECTION ACT

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. REYES. Mr. Speaker, I am proud to rise in support of H.R. 1925, the Runaway, Homeless and Missing Children Protection Act. This measure reauthorizes both the Runaway and Homeless Youth Program and the Missing Children's Assistance Act. This bill will also increase the funding levels for these programs through 2008.

In addition, this bill increases the funding level for the National Center for Missing and Exploited Children. This bill will double the funding level from $10 million to $20 million over the next four years.

As you may know, Mr. Speaker, I along with my colleague from Texas, Mr. LAMPSON and other Members, founded the Missing and Exploited Children's Caucus. The Caucus was created to build awareness around the issue of missing and exploited children for the purpose of finding children who are currently missing and to prevent future abductions.

I applaud the efforts of the National Center for Missing and Exploited Children and of the Caucus under the chairmanship of Representative NICK LAMPSON. I would urge my colleagues to support this legislation and I yield back the balance of my time.

TRIBUTE TO THE HONORABLE LARRY COMBEST

SPEECH OF

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 19, 2003

Mr. SESSIONS. Mr. Speaker, I rise today to honor Congressman LARRY COMBEST for his service to this chamber and to the people of Texas. The 19th Congressional District of Texas has been diligently represented by Congressman COMBEST for over eighteen years since his initial election to Congress in 1984. LARRY's greatest accomplishments came during his reign as Chairman of the House Agriculture Committee. Under the leadership of Chairman COMBEST, the Agriculture Committee completed years of work in passing the Farm Bill that President George W. Bush signed into law last year.

Prior to being elected to the House of Representatives, LARRY was no stranger to Capitol Hill. He served as a legislative assistant to Senator John Tower of Texas from 1971 to 1978.

I've had the privilege of working alongside LARRY since I came to this body in 1997. I have come to know LARRY to be not only a hard-working colleague, but also a wonderful friend, He and his lovely wife Sharon will be greatly missed around these halls.

I would also like to take this opportunity to thank the very capable and intelligent staff of Congressman COMBEST. Among the staff, Congressman COMBEST's Senior Legislative Assistant, Taylor Bledsoe, will also shortly be leaving the Hill. Taylor has been a great asset to Congressman COMBEST, and is a good friend. I wish Taylor and his wife Jen all the best for their move back to the Lone Star State.

LARRY leaves behind Texas-sized shoes for his successor to fill. I wish LARRY and his family well. Thank you LARRY for your service to Texas and to the nation.

CELEBRATING THE 325TH ANNIVERSARY OF THE FOUNDING OF NEW PALTZ, NEW YORK

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. HINCHEY. Mr. Speaker, I rise today to pay tribute to the community of New Paltz in Ulster County, New York, which is part of the 22nd Congressional District that I proudly serve. This year marks the 325th Anniversary of the founding of New Paltz, as well as the 175th Anniversary of the founding of the College of New Paltz. I am delighted to recognize this community's rich historical heritage and continued vitality, as the Town of New Paltz and State University of New York (SUNY) at New Paltz mark these important milestones.

New Paltz was founded in 1678 by Huguenot families who were seeking refuge from severe religious persecution in France. The community was self-governed by the Duzine, referring to the twelve partners who acquired the royal land patent in 1677 on more than 33,000 acres purchased from local Native Americans. The Duzine decided local matters and consisted of one representative from each of the original families. That form of government continued well past the time of the American Revolution, by special action of the New York State Legislature. New Paltz was dominated for more than 150 years by the founding partners and their heirs, whose family names can still be found today in the area.

The lands encompassed in the original patent, stretching all the way from the

Shawangunk Mountains to the Hudson River, were augmented soon by additional patents to the south. These lands were eventually divided among the twelve partners, their relatives, and a few friends into large plots—part wilderness and part farm. The farms were grouped principally around the heights west and east of the Wallkill River.

The area's commercial center was located on the east shore of the Wallkill River, where the Huguenots built wooden homes and later, stone houses. These houses were located on what is now known as Huguenot Street, the oldest continuously inhabited street in America. Many of the seventeenth century stone buildings still stand today and have been preserved as a museum community. The Huguenot Street Historic District has also been designated a National Historical Landmark.

The population of New Paltz gradually increased and moved up from the Wallkill River to what is now Main Street and beyond. Areas that are now incorporated into the nearby towns of Lloyd, Shawangunk, Esopus and Gardiner split off from the Town of New Paltz between 1843 and 1853. The Village of New Paltz was incorporated within the town in 1887. For 200 years after its settlement, New Paltz remained a small, isolated farming community. Farming, particularly of apples, is still one of New Paltz's largest businesses.

New Paltz farmers looked early on to surrounding communities and even to New York City for markets. Establishment of the Wallkill Valley Railroad in 1870 gave a great boost to their commercial efforts. After fifty years or so, the automobile began to replace the train, and finally, in the early 1950's, the opening of the New York State Thruway with an exit for New Paltz made this community much more accessible, leading to substantial growth in the town and at the University.

Higher education has long been one of the main concerns of the community, especially since 1828 when the New Paltz Classical School was established and, shortly thereafter, became the New Paltz Academy. This Academy slowly metamorphosed into the State University of New York (SUNY) at New Paltz, which continues to offer high quality education to thousands of undergraduate and graduate students each year. I would like to note I am a proud alumnus of SUNY New Paltz. I would also like to mention that SUNY's library is named after one of Ulster County's most famous residents, Sojourner Truth, the abolitionist and champion for women's suffrage, who lived in and around New Paltz for part of her life.

Over many generations, New Paltz's population has been enriched with a variety of races, faiths and ethnic backgrounds. New Paltz continues to uphold its long-held traditions of respect for diversity and civic involvement, while actively working to preserve its historic, cultural and scenic resources. Mr. Speaker, it gives me great pleasure to recognize and honor New Paltz as this community prepares to celebrate the 325th Anniversary of its founding and the 175th Anniversary of the founding of the College of New Paltz.

ENHANCING COOPERATION AND SHARING OF RESOURCES BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DOD

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 20, 2003

Mr. REYES. Mr. Speaker, I rise in support of H.R. 1911. This bill authorizes the Department of Defense (DOD) and the Department of Veterans Affairs (VA) to investigate ways to share resources to improve benefits and services, including health care, to veterans, service members, military retirees and their families.

As many of you may have read in the National Journal article of February 15, 2003, the relationship between William Beaumont Army Medical Center (WBAMC) and the VA outpatient clinic in my home district of El Paso, Texas is an excellent example of resource sharing. For years, a veteran in El Paso who needed specialized care had to be referred to the nearest full-service VA hospital, which happened to be a four hour drive away in Albuquerque, New Mexico. Today, a veteran can literally go next door to WBAMC. There, the VA is given access to expensive expertise and equipment, such as pathologists and MRI scans, and in return the VA reimburses the Army nearly $5 million a year, well below the going rate for the medical care in the private sector.

I have urged both the DOD and the VA to build on our success story in El Paso and use this cooperation as a nationwide model. I hope my colleagues will join me in support of H.R. 1911. I yield back the balance of my time.

BOMBING IN RIYADH

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. OXLEY. Mr. Speaker, as the investigation into the horrible bombing in Riyadh continues, I would commend to my colleagues' attention a column in the Wall Street Journal written by former FBI Director Louis Freeh about the 1996 bombing of the Khobar Towers complex in Saudi Arabia. It contains valuable lessons that should be applied to the probe of this latest attack. Cooperation between the U.S. and Saudi Arabia will be essential, as will the resolve that we have seen on the part of President Bush to bring terrorists to justice. As the article also demonstrates, the FBI needs our support for its critical mission of investigating and preventing terrorism in the U.S. and around the world.

[From the Wall Street Journal, May 20, 2003]

AMERICAN JUSTICE FOR OUR KHOBAR HEROES

(By Louis J. Freeh)

Responding to last week's terrorist attacks in Riyadh, President Bush declared that ''the United States will find the killers, and they will learn the meaning of American justice.'' This is a president who is serious about fighting and winning the war on terrorism. The liberation of Iraq and the continued effort to bring al Qaeda to justice are all the proof anyone should need.

On May 1, our commander in chief stood on the flight deck of the USS Abraham Lincoln—where he rightly should stand—and reiterated the Bush doctrine: ''Any person involved in committing or planning terrorist attacks against the American people becomes an enemy of this country, and a target of American justice.'' As if in response, Ayatollah Ahmad Jannati, the leader of Iran's powerful Guardian Council, had this to say in a sermon the next day: ''The Iraqi people have reached the conclusion that they have no option but to launch an uprising and resort to martyrdom operations to expel the United States from Iraq.''

Impervious to the new order against terrorism are the terrorists who maintain their regime in Tehran. While the horrific bombing scenes were still smoldering and littered with their victims in Riyadh, Iranian President Mohammad Khatami received a rousing welcome in Beirut, where he vowed to support ''resistance'' against Israel and called the U.S. occupation of Iraq a ''great mistake'' and a ''dangerous game.'' Meanwhile, Mr. Khatami's atomic-energy chief denied that Iran had a nuclear weapons program but told the U.N. that his country was not willing to submit to tougher inspections.

Make no mistake, Iran's terrorist leaders are well versed in ''martyrdom operations'' against Americans. Hezbollah, the exclusive terrorist agent of the Islamic Republic of Iran, has killed more Americans than any other group besides al Qaeda. In 1982, Hezbollah carried out the suicide bombing in Beirut that killed 241 U.S. Marines. In 1985, Hezbollah brutally murdered a young U.S. Navy diver aboard their hijacked TWA Flight 847 in Lebanon and dumped his body on the tarmac. Into the 1990s Hezbollah terrorists kidnapped, tortured and murdered several American military and civilian officers as well as other Westerners.

On June 25, 1996, Iran again attacked America at Dhahran, Saudi Arabia, exploding a huge truck bomb that devastated Khobar Towers and murdered 19 U.S. airmen as they rested in their dormitory. These young heroes spent every day risking their lives enforcing the no-fly zone over southern Iraq; that is, protecting Iraqi Shiites from their own murderous tyrant. When I visited this horrific scene soon after the attack, I watched dozens of dedicated FBI agents combing through the wreckage in 120-degree heat, reverently handling the human remains of our brave young men. More than 400 of our Air Force men and women were wounded in this well-planned attack, and I was humbled by their courage and spirit. I later met with the families of our lost Khobar heroes and promised that we would do whatever was necessary to bring these terrorists to American justice. The courage and dignity these wonderful families have consistently exemplified has been one of the most powerful experiences of my 26 years of public service.

The FBI's investigation of the Khobar attack was extraordinarily persistent, indeed relentless. Our fallen heroes and their families deserve nothing less. Working in close cooperation with the White House, State Department, CIA and Department of Defense, I made a series of trips to Saudi Arabia beginning in 1996. FBI agents opened an office in Riyadh and aligned themselves closely with the Mabaheth, the kingdom's antiterrorist police. Over the course of our investigation the evidence became clear that while the attack was staged by Saudi Hezbollah members, the entire operation was planned, funded and coordinated by Iran's security services, the IRGC and MOIS, acting on orders from the highest levels of the regime in Tehran.

In order to return an indictment and bring these terrorists to American justice, it became essential that FBI agents be permitted to interview several of the participating Hezbollah terrorists who were detained in Saudi Arabia. The purpose of the interviews was to confirm—with usable, co-conspirator testimonial evidence—the Iranian complicity that Saudi Ambassador Prince Bandar bin Sultan and the Mabaheth had already relayed to us. (For the record, the FBI's investigation only succeeded because of the real cooperation provided by Prince Bandar and our colleagues in the Mabaheth.) FBI agents had never before been permitted to interview first-hand Saudis detained in the kingdom.

Unfortunately, the White House was unable or unwilling to help the FBI gain access to these critical witnesses. The only direction from the Clinton administration regarding Iran was to order the FBI to stop photographing and fingerprinting official Iranian delegations entering the U.S. because it was adversely impacting our ''relationship'' with Tehran. We had argued that the MOIS was using these groups to infiltrate its agents into the U.S.

After months of inaction, I finally turned to the former President Bush, who immediately interceded with Crown Prince Abdullah on the FBI's behalf. Mr. Bush personally asked the Saudis to let the FBI do one-on-one interviews of the detained Khobar bombers. The Saudis immediately acceded. After Mr. Bush's Saturday meeting with the Crown Prince in Washington, Ambassador Wyche Fowler, Dale Watson, the FBI's excellent counterterrorism chief, and I were summoned to a Monday meeting where the crown prince directed that the FBI be given direct access to the Saudi detainees. This was the investigative breakthrough for which we had been waiting for several years.

Mr. Bush typically disclaimed any credit for his critical intervention but he earned the gratitude of many FBI agents and the Khobar families. I quickly dispatched the FBI case agents back to Saudi Arabia, where they interviewed, one-on-one, six of the Hezbollah members who actually carried out the attack. All of them directly implicated the IRGC, MOIS and senior Iranian government officials in the planning and execution of this attack. Armed with this evidence, the FBI recommended a criminal indictment that would identify Iran as the sponsor of the Khobar bombing. Finding a problem for every solution, the Clinton administration refused to support a prosecution.

The prosecution and criminal indictment for these murders had to wait for a new administration. In February 2001, working with exactly the same evidence but with a talented new prosecutor, James B. Comey Jr. (now U.S. attorney for the Southern District of New York), Attorney General John Ashcroft's personal intervention, and White House support, the case was presented to a grand jury. On June 21, 2001, only four days before some of the terrorist charges would have become barred by the five-year statute of limitations, the grand jury indicted 13 Hezbollah terrorists for the Khobar attack and identified Iran as the sponsor.

Nonetheless, the terrorists who murdered 19 U.S. airmen and wounded hundreds more have yet to be brought to American justice. Whenever U.S. diplomats hold talks with representatives of Iran's Islamic government, Khobar Towers should be the top item on their agenda. The arrest and turnover to U.S. authorities of Ahman Ibrahim Al-Mughassil and Ali Saed bin Ali Al-Houri, two of the indicted Hezbollah leaders of the Khobar attack believed to be in Iran, should be part of any ''normalization'' discussion. Furthermore, access and accountability by IRGC, MOIS and other senior Iranian government leaders for their complicity in the attack should be nonnegotiable.

Before his appointment as the top U.S. administrator in Iraq, L. Paul Bremer chaired the National Commission on Terrorism, which studied the Khobar attack. The commission concluded that ''Iran remains the most active state supporter of terrorism. . . . The IRBC and MOIS have continued to be involved in the planning and execution of terrorist acts. They also provide funding, training, weapons, logistical resources, and guidance to a variety of terrorist groups, including Hezbollah, Hamas, PIJ, and PFLP–GC.'' The commission noted that ''in October 1999, President Clinton officially requested cooperation [a letter delivered through a third-party government] from Iran in the investigation [of the Khobar bombing]. Thus far, Iran has not responded. International pressure in the Pan Am 103 case ultimately succeeded in getting some degree of cooperation from Libya. The United States government has not sought similar multilateral action to bring pressure on Iran to cooperate in the Khobar Towers bombing investigation.''

One of my last official acts as FBI director was to attend a memorial service at Arlington National Cemetery with the 19 stoic Air Force families with whom I had become very close. They all came to my office to thank the FBI for keeping faith with them and presented me with a signed plaque. It will always be for me the most cherished honor of my public service.

Yesterday the White House reiterated Defense Secretary Donald Rumsfeld's recent statement that al Qaeda leaders are now conducting their operations from Iran. The time to bring that pressure to bear is right now, with Ambassador Bremer and our armed forces bringing democracy and justice to the Iraqi people next door. This time the United States should not just send Tehran a letter. American justice for our 19 Khobar heroes is long overdue.

PEACE IN SRI LANKA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 21, 2003

Mr. PALLONE. Mr. Speaker, I rise on the House floor this evening to express my concerns about the pause in peace negotiations between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE), also known as the Tamil Tigers. I would also like to reiterate my full support for peace talks between both sides to resume.

Mr. Speaker, Sri Lanka is a country that has suffered the tremendous loss of nearly 65,000 lives due to a longstanding internal conflict between Sri Lankans and the LTTE. On February 22, 2002, a groundbreaking ceasefire agreement was brokered by the Norwegian government and signed by both the Sri Lankan government and the LTTE. At that time, we all wished for a successful peace process and both sides were committed to working towards the end goal of peace.

Although the agreement was fairly structured, a peace process can only proceed when all parties act on good faith and adhere to the agreed ceasefire accord. Unfortunately, the LTTE has recently withdrawn from the peace process and is boycotting the continued peace talks to be held in June in Japan at the Tokyo Donor Conference.

Mr. Speaker, the LTTE has said they will not participate in the Tokyo Donor Conference in protest over their exclusion from the preliminary conference held in Washington in April. The U.S. State Department did not invite the LTTE to the preliminary conference in Washington due to the fact that they remain on the State Department list of terrorist organizations.

Mr. Speaker, both sides claim violations of the ceasefire agreement. According to Sri Lanka Monitoring Mission (SLMM), many violations have been made by the LTTE since the cease-fire agreement. For example, the LTTE is still recruiting child soldiers, the LTTE has attacked the Sri Lankan Navy and a Chinese trawler, and the LTTE actively attempts to import arms, which have subsequently been intercepted by the Sri Lankan Navy.

The LTTE rebels also criticized the Sri Lankan military for its continued occupation of Tamil homes, schools, places of worship and other public buildings in violation of the ceasefire agreement.

I feel strongly that if the LTTE returns to the peace talks and participates in the Tokyo Donor Conference, a peaceful resolution between both sides can be worked out. The United States and countries around the world are concerned and would like to see the long process of building peace in Sri Lanka continue on a timely basis.

Mr. Speaker, the signed ceasefire offers a window of opportunity for peace in Sri Lanka and I encourage the LTTE to recognize and utilize this unique opportunity for working towards peace and stability.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 22, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 3

10 a.m.
Indian Affairs
To hold oversight hearings to examine the status of tribal fish and wildlife management programs.
SR–485

JUNE 4

9:30 a.m.
Foreign Relations
To hold hearings to examine Iraq stabilization and reconstruction, focusing on international contributions and resources.
SD–419

10 a.m.
Indian Affairs
To hold hearings to examine S. 281, to amend the Transportation Equity Act for the 21st Century to make certain amendments with respect to Indian tribes, to provide for training and technical assistance to Native Americans who are interested in commercial vehicle driving careers, and S. 725, to amend the Transportation Equity Act for the 21st Century to provide from the Highway Trust Fund additional funding for Indian reservation roads.
SR–485

Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 391, to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, S. 1003, to clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River, H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California, and S. 924, to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior.
SD–366

2 p.m.
Indian Affairs
To hold oversighyt hearings to examine the impacts on tribal fish and wildlife management programs in the Pacific Northwest.
SR–485

JUNE 5

9:30 a.m.
Rules and Administration
To hold hearings to examine Senate Rule XXII and proposals to amend this rule.
SR–301

JUNE 10

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the Head Start program.
SD–430

JUNE 11

10 a.m.
Indian Affairs
To hold hearings to examine the nomination of Charles W. Grim, of Oklahoma, to be Director of the Indian Health Service, Department of Health and Human Services.
SR–485

JUNE 18

10 a.m.
Indian Affairs
To hold oversight hearings to examine Native American sacred places.
SR–485

Daily Digest

HIGHLIGHTS

House Committees ordered reported 11 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S6789–S6844

Measures Introduced: Thirteen bills and two resolutions were introduced, as follows: S. 1090–1102, and S. Res. 151–152. **(See next issue.)**

Measures Reported:

Special Report entitled "Committee Activities of the Select Committee on Intelligence, United States Senate, January 3, 2001, to November 22, 2002". (S. Rept. No. 108–52) **(See next issue.)**

S. 515, to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency. (S. Rept. No. 108–50) **(See next issue.)**

S. 313, to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs, with amendments. (S. Rept. No. 108–51) **(See next issue.)**

H.R. 192, to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts. **(See next issue.)**

S. Con. Res. 7, expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences. **(See next issue.)**

Measures Passed:

Ombudsman Reauthorization Act: Senate passed S. 515, to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency. **(See next issue.)**

Welcoming the President of the Philippines to the United States: Senate agreed to S. Res. 152, welcoming the President of the Philippines to the United States, expressing gratitude to the Government of the Philippines for its strong cooperation with the United States in the campaign against terrorism and its membership in the coalition to disarm Iraq, and reaffirming the commitment of Congress to the continuous expansion of friendship and cooperation between the United States and the Philippines. **(See next issue.)**

U.N. Sanctions Against Iraq: Committee on Foreign Relations was discharged from further consideration of H. Con. Res. 160, expressing the sense of Congress that the United Nations should remove the economic sanctions against Iraq completely and without condition, and the resolution was then agreed to. **(See next issue.)**

Department of Defense Authorization: Senate continued consideration of S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, taking action on the following amendments:

Pages S6789–S6843 (continued next issue)

Adopted:

By 59 yeas to 38 nays (Vote No. 187), Warner Amendment No. 752 (to Amendment No. 751), in the nature of a substitute. **Pages S6789–92**

By a unanimous vote of 96 yeas (Vote No. 188), Reed Amendment No. 751, to modify the scope of the prohibition on research and development of low-yield nuclear weapons. **Pages S6789–92**

Collins Amendment No. 757, to amend title 10, United States Code, to restrict bundling of Department of Defense contract requirements that unreasonably disadvantages small businesses. **Pages S6793–97**

Nelson (FL) Amendment No. 766, to require a specific authorization of Congress for the commencement of the engineering development phase or subsequent phase of a Robust Nuclear Earth Penetrator. **Page S6805**

Nelson (FL) Amendment No. 767, to require a study on the application of technology from the Robust Nuclear Earth Penetrator Program to conventional hard and deeply buried target weapons development programs. **Pages S6805–06**

Hutchison Amendment No. 763, to add availability of family support services to the matters required to be included in the report on the conduct of Operation Iraqi Freedom in section 1023. **Pages S6808–10**

By 51 yeas to 48 nays (Vote No. 190), Lautenberg/Jeffords Amendment No. 722, to modify requirements applicable to the limitation on designation of critical habitat for conservation of protected species under the provision on military readiness and conservation of protected species. **Pages S6810–15**

Bingaman Modified Amendment No. 765, to require a specific authorization of Congress before the conduct of the design, development, or deployment of the hit-to-kill ballistic missile defense interceptors. **Pages S6819–21, S6823**

By 50 yeas to 48 nays (Vote No. 191), McCain Amendment No. 783, (to language proposed to be stricken by Amendment No. 725), to propose the insertion of matter in lieu of the matter proposed to be stricken. **Pages S6823–27**

Warner Amendment No. 792, to correct the authorization of appropriations for the Joint Engineering Data Management Information and Control System (JEDMICS) so as to be provided for in Navy RDT&E (PE 0603739N) instead of Navy procurement. **Pages S6833–34**

Levin (for Wyden) Amendment No. 793, to provide for the reporting requirement regarding Iraq to include a requirement to report noncompetitive contracting for the reconstruction of the infrastructure of Iraq. **Pages S6834–35**

Warner (for McCain/Bayh) Amendment No. 794, to provide for the funding of education assistance enlistment incentives to facilitate National service through Department of Defense Education Benefits Fund. **Page S6835**

Warner (for Roberts) Amendment No. 795, to enhance the defense contracting opportunities for persons with disabilities. **Page S6835**

Levin (for Nelson (FL)) Amendment No. 759, expressing the sense of the Senate that the Secretary of Defense should disburse funds to reward the provision of information leading to the resolution of the status of the members of the Armed Forces of the United States who remain missing in action. **Pages S6835–36**

Warner (for Domenici) Amemdment No. 740, to provide entitlement to health care for reserve officers of the Armed Forces pending orders to initial active duty following commissioning. **Page S6836**

Levin (for Feinstein/Stevens) Amendment No. 796, to prohibit the use of funds for research, development, test, and evaluation, procurement, or deployment of nuclear armed interceptors in a missile defense system. **Page S6836**

Warner (for Lott) Amendment No. 700, to express the sense of the Senate in support of the Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program. **Pages S6836–37**

Warner (for Allard) Amendment No. 779, to provide a substitute for section 1035, relating to the protection of the operational files of the National Security Agency. **Pages S6837–38**

Levin (for Dodd) Modified Amendment No. 746, to require an Army study regarding use of a second source of production for gears incorporated into helicopter transmissions for CH–47 helicopters. **Page S6838**

Warner (for Chambliss) Amendment No. 784, to require a report on the efforts of the National Geospatial-Intelligence Agency to utilize certain data extraction and exploitation capabilities within the Commercial Joint Mapping Tool Kit (C/JMTK). **Page S6838**

Levin (for Lieberman) Amendment No. 797, to provide for a strategy for the Department of Defense for the management of the electromagnetic spectrum. **Pages S6838–39**

Warner (for Domenici) Amendment No. 739, to expand reimbursement for travel expenses of covered beneficiaries of CHAMPUS for specialty care in order to cover specialized dental care. **Page S6839**

Warner Amendment No. 798, to strike subsection (c) of section 2101 relating to unspecified worldwide military construction projects for the Army. **Page S6839**

Rejected:

Dorgan Modified Amendment No. 750, to prohibit the use of funds for a nuclear earth penetrator weapon. (By 56 yeas to 41 nays (Vote No. 189), Senate tabled the amendment.) **Pages S6797–S6804**

Withdrawn:

Harkin Amendment No. 774, to prohibit the use of funds for acquiring for inventories of the Department of Defense property in excess of the requirements for the inventories. **Pages S6815–18**

Bennett Amendment No. 776, to repeal the Millions of Theoretical Operations Per Second (MTOPS) requirement for computer export controls. **Pages S6818–19**

Pending:

Murray Amendment No. 691, to restore a previous policy regarding restrictions on use of Department of Defense medical facilities. **Pages S6831–33**

During consideration of this measure today, Senate also took the following action:

Dayton Amendment No. 725, to strike section 833, relating to waiver authority for domestic source or content requirements, was rendered moot when McCain Amendment No. 783 (listed above) was adopted. **Pages S6821–23, S6827**

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m., on Thursday, May 22, 2003, with certain amendments to be proposed thereto. **Page S6843**

Messages From the House: **(See next issue.)**

Measures Referred: **(See next issue.)**

Enrolled Bills Presented: **(See next issue.)**

Executive Communications: **(See next issue.)**

Executive Reports of Committees: **(See next issue.)**

Additional Cosponsors: **(See next issue.)**

Statements on Introduced Bills/Resolutions: **(See next issue.)**

Additional Statements: **(See next issue.)**

Amendments Submitted: **(See next issue.)**

Notices of Hearings/Meetings: **(See next issue.)**

Authority for Committees to Meet: **(See next issue.)**

Privilege of the Floor: **(See next issue.)**

Record Votes: Five record votes were taken today. (Total—191) **Pages S6792, S6804, S6815, S6827**

Adjournment: Senate met at 9:31 a.m., and adjourned at 9:41 p.m., until 9:30 a.m., on Thursday, May 22, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S6844.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Agriculture, Nutrition, and Forestry: Committee ordered favorably reported the nominations of Glen Klippenstein, of Missouri, Julia Bartling, of South Dakota, and Lowell Junkins, of Iowa, each to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation, Farm Credit Administration.

NATIONAL EXPORT STRATEGY

Committee on Banking, Housing, and Urban Affairs: Committee concluded oversight hearings to examine the national export strategy, focusing on the Trade Promotion Coordinating Committee (TPCC), activity in post-crisis regions including the Afghanistan Reconstruction and frontline States in Central Asia, and transportation security and safety initiatives, after receiving testimony from Donald L. Evans, Secretary of Commerce; Grant D. Aldonas, Under Secretary of Commerce for International Trade; Philip Merrill, President and Chairman, Export-Import Bank of the United States; Peter S. Watson, President and Chief Executive Officer, Overseas Private Investment Corporation; Hector V. Barreto, Jr., Administrator, Small Business Administration; and Barbara R. Bradford, Deputy Director, U.S. Trade and Development Agency.

COMPUTER SPAM

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine issues concerning the extent and effects of receiving unsolicited commercial e-mail (computer spam), focusing on Federal efforts to combat its growing threat to web-based services, after receiving testimony from Senators Schumer and Dayton; Orson Swindle and Mozelle W. Thompson, both Commissioners of the Federal Trade Commission; Ted Leonsis, America Online Incorporated, Dulles, Virginia; Enrique Salem, Brightmail, Incorporated, San Francisco, California; J. Trevor Hughes, Network Advertising Initiative, York, Maine; Marc Rotenberg, Electronic Privacy Information Center (EPIC), Washington, D.C.; and Ronald Scelson, Scelson Online Marketing, Slidell, Louisiana.

SAFETEA

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, (also known as SAFETEA (Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003)), receiving testimony from Norman Y. Mineta, Secretary of Transportation, Jeffery Runge, Administrator, National Highway Traffic Safety Administration, and Annette M. Sandberg, Deputy Administrator, Federal Motor Carrier Administration, all of the Department of Transportation.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following business items:

S. 246, to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico, with amendments;

S. 500, to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era, with an amendment in the nature of a substitute;

S. 520, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho;

S. 625, to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon, with an amendment;

S. 635, to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, with an amendment in the nature of a substitute;

H.R. 519, to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed;

H.R. 733, to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, and to administer the site as a unit of the National Park System, with an amendment in the nature of a substitute and an amendment to the title; and

H.R. 788, to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona.

ASIA

Committee on Foreign Relations: on Tuesday, May 20, 2003, Committee met in closed session to receive a briefing on North Korea and Indonesia from James A. Kelly, Assistant Secretary of State for East Asian and Pacific Affairs.

TRADE IN THE WESTERN HEMISPHERE

Committee on Foreign Relations: on Tuesday, May 20, 2003, Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs concluded hearings to examine the future of U.S. economic relations in the Western Hemisphere, the success of the North American Free Trade Agreement (NAFTA), the U.S. trade agenda, the U.S.-Chile Free Trade Agreement, agriculture in the World Trade Organization (WTO), and additional actions on intellectual property, trade, and soybean rust, after receiving testimony from J.B. Penn, Under Secretary of Agriculture for Farm and Foreign Agricultural Services; Allen F. Johnson, Chief Agriculture Negotiator, Office of U.S. Trade Representative; Bart Ruth, Rising City, Nebraska, on behalf of the American Soybean Association; Carl Casale, Monsanto Company, St. Louis, Missouri; Robert W. Greene, Courtland, Alabama, on behalf of the National Cotton Council of America; Doug Boisen, National Corn Growers Association, Minden, Nebraska; Jim McDonald, Grangeville, Idaho, on behalf of U.S. Wheat Associates and National Association of Wheat Growers; Jim Quackenbush, Chokio, Minnesota, on behalf of the National Pork Producers Council; Andrew W. LaVigne, Florida Citrus Mutual, Lakeland, Florida; Jack Roney, American Sugar Alliance, and Thomas M. Suber, U.S. Dairy Export Council, both of Arlington, Virginia; and Gregg Doud, National Cattlemen's Beef Association, and David J. Frederickson, National Farmers Union, both of Washington, D.C.

BUSINESS MEETING

Committee on Foreign Relations: Committee ordered favorably reported the following business items:

An original bill to authorize foreign assistance for fiscal year 2004, to make technical and administrative changes to the Foreign Assistance and Arms Export Control Acts;

An original bill to establish a Millennium Challenge Corporation;

S. Con. Res. 7, expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences;

H.R. 192, to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts; and

The nominations of Ephraim Batambuze, of Illinois, and John W. Leslie, Jr., of Connecticut, both to be a Member of the Board of Directors of the African Development Foundation, Cynthia Costa, of South Carolina, and Ralph Martinez, of Florida, both to be an Alternate Representative of the United States of America to the Fifty-seventh Session of the General Assembly of the United Nations, Michael B. Enzi, of Wyoming, Paul Sarbanes, of Maryland, and James Shinn, of New Jersey, each to be a Representative of the United States of America to the Fifty-seventh Session of the General Assembly of the United Nations, James B. Foley, of New York, to be Ambassador to the Republic of Haiti, Richard W. Erdman, of Maryland, to be Ambassador to the People's Democratic Republic of Algeria, Jeffrey Lunstead, of the District of Columbia, to be Ambassador to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador to the Republic of Maldives, Harry K. Thomas, Jr., of New York, to be Ambassador to the People's Republic of Bangladesh, Steven A. Browning, of Texas, to be Ambassador to the Republic of Malawi, and two Foreign Service Officer promotion lists.

SARS: STATE AND LOCAL RESPONSE

Committee on Governmental Affairs: Permanent Subcommittee on Investigations concluded hearings to examine the scope of the SARS outbreak, focusing

on the coordination of response to individual outbreaks among local, state, and Federal officials, as well as between government officials and the private sector, and what state and local officials are doing to anticipate and respond to the disease, after receiving testimony from Julie L. Gerberding, Director, Centers for Disease Control and Prevention, and Anthony S. Fauci, Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health, both of the Department of Health and Hums Services; Michael T. Osterholm, University of Minnesota, Minneapolis; Rodney N. Huebbers, Loudoun Healthcare, Incorporated, Leesburg, Virginia; Thomas R. Frieden, New York City Department of Health and Mental Hygiene, New York; Mary C. Selecky, Washington State Department of Health, Olympia, on behalf of the Association of State and Territorial Health Officials; Lawrence O. Gostin, Georgetown University Law Center, Washington, D.C.; Bruce R. Cords, Ecolab Incorporated, St. Paul, Minnesota; and Vicki Grunseth, Metropolitan Airports Commission, Minneapolis, Minnesota.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported S. 1053, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, with an amendment in the nature of a substitute.

BUREAU OF INDIAN AFFAIRS

Committee on Indian Affairs: Committee concluded oversight hearings to examine the proposed reorganization of the Bureau of Indian Affairs, and the Office of Special Trustee, focusing on tribal economic development, self-determination and self governance policies and projects, accountability by the addition of Regional Trust Administrators and Trust Officers to serve as an additional resource for fiduciary trust transactions, and consolidated beneficiary services, after receiving testimony from Ross O. Swimmer, Special Trustee for American Indians, and Aurene M. Martin, Acting Assistant Secretary, Bureau of Indian Affairs, both of the Department of the Interior; Tex G. Hall, National Congress of American Indians, Washington, D.C.; John Berry, Quapaw Tribe of Oklahoma, Quapaw, and Richard Sangrey, Albuquerque, New Mexico, both on behalf of the Inter-Tribal Monitoring Service; Clifford Marshall, Hoopa Valley Tribe, California, on behalf of the Tribal Trust Reform Consortium; and Keller George, Oneida Indian Nation, Nashville, Tennessee, on behalf of the United South and Eastern Tribes (USET).

NOMINATION

Committee on the Judiciary: Committee concluded hearings on the nomination of R. Hewitt Pate, of Virginia, to be an Assistant Attorney General, Department of Justice, after the nominee, who was introduced by Senator Allen, testified and answered questions in his own behalf.

House of Representatives

Chamber Action

Measures Introduced: 25 public bills, H.R. 2178–2202; and 5 resolutions, H.J. Res. 56; H. Con. Res. 187–189, and H. Res. 246, were introduced. **Pages H4527–28**

Additional Cosponsors: **Pages H4528–29**

Reports Filed: Reports were filed today as follows:

Supplemental report on H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004 (H. Rept. 108–106, Pt. 2);

H.R. 1170, to protect children and their parents from being coerced into administering psychotropic medication in order to attend school, amended (H. Rept. 108–121).

H. Res. 247, providing for further consideration of H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004 (H. Rept. 108–122);

H. Res. 248, providing for consideration of H.R. 2185, to extend the Temporary Extended Unemployment Compensation Act of 2002 (H. Rept. 108–123); and

H. Res. 249, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 108–124). **Pages H4526–27**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Quinn to act as Speaker pro tempore for today. **Page H4371**

Guest Chaplain: The prayer was offered by the Rev. Gregory J. Jackson, Senior Pastor, Mt. Olive Baptist Church of Hackensack, New Jersey. Page H4371

United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act: Agreed to the Senate amendments to H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria—clearing the measure for the President. Pages H4375–82

The motion to concur in the Senate amendments was considered pursuant to the order of the House of May 20. Page H4382

Enrollment Correction: The House agreed to S. Con. Res. 46, to correct the enrollment of H.R. 1298, United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act. Later, the House agreed to vacate that action, amend the concurrent resolution, and then adopt the concurrent resolution as so amended. Page H4382

100th Anniversary Year of the Founding of the Ford Motor Company: The House agreed to H. Res. 100, recognizing the 100th anniversary year of the founding of the Ford Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a revolutionary industrial and global institution. Agreed to the amendment to the preamble and agreed to amend the title so as to read: ''Resolution recognizing the 100th anniversary year of the founding of the Ford Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a revolutionary industrial and global institution, and congratulating the Ford Motor Company for its achievements.''. Pages H4399–H4402

Suspension: The House agreed to suspend the rules and pass the following measures:

Child Medication Safety Act: H.R. 1170, amended, to protect children and their parents from being coerced into administering psychotropic medication in order to attend school (agreed to by yea-and-nay vote of 425 yeas to 1 nay, Roll No. 203). Agreed to amend the title so as to read: ''A bill to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.'' and Pages H4382–87, H4398

Enhanced Cooperation Between the VA and DOD: Debated on May 20, H.R. 1911, to amend title 38, United States Code, to enhance cooperation and the sharing of resources between the Department of Veterans Affairs and the Department of Defense (agreed to by yea-and-nay vote of 426 yeas with none voting ''nay,'' Roll No. 204); Pages H4398–99

Supplemental Report: The Committee on Armed Services received permission to file a supplemental report on H.R. 1588, National Defense Authorization for Fiscal Year 2004. Page H4402

National Defense Authorization for Fiscal Year 2004: The House completed general debate and began considering amendments to H.R. 1588, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2004. Proceedings will resume on Thursday, May 22. Pages H4402–H4511

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Armed Services and printed in the bill (H. Rept. 108–106) was considered as an original bill for the purpose of amendment. Pages H4419–92

Agreed To:

Hunter amendment No. 1 printed in H. Rept. 108–120 that makes technical, clarifying changes; strikes Section 317(a) concerning the Endangered Species Act and maintains ''prudent and determinable designation''; and replaces Section 318(a) concerning Marine Mammal Protection Act to define harassment in the case of military readiness activities only (agreed to by recorded vote of 252 ayes to 175 noes, Roll No. 205); Pages H4492–93, H4497–98

Goode amendment No. 2 printed in H. Rept. 108–120 that authorizes the Secretary of Defense to assign members of the Army, Navy, Air Force, and Marine Corps to assist the Bureau of Border Security and the Customs Service at the request of the Secretary of Homeland Security (agreed to by recorded vote of 250 ayes to 179 noes, Roll No. 206); Pages H4494–97, H4498

Hoeffel amendment No. 5 printed in H. Rept. 108–120 that requires an annual report from the President on the strategic nuclear warheads dismantled pursuant to the treaty between the United States and the Russian Federation on Strategic Reductions; Pages H4506–07

Goss amendment No. 7 printed in H. Rept. 108–120 that requires the Secretary of Defense to assess the costs to the United States associated with the location of the headquarters of the North Atlantic Treaty Organization (NATO) in Brussels, Belgium and the costs and benefits of relocating that headquarters to a suitable location in another NATO member country; and Pages H4508–09

Hunter amendment No. 9 printed in H. Rept. 108–120 that expresses the sense of Congress that the expansion of the NATO alliance and the evolution of its military mission requires a fundamental

reevaluation of the current posture of United States forces stationed in Europe and urges the President to initiate the reevaluation and consider a military posture that takes advantage of basing and training opportunities in the newly admitted and invitee states. **Pages H4510–11**

Postponed Proceedings:

Loretta Sanchez amendment No. 3 printed in H. Rept. 108–120 was offered that seeks to permit abortions at DoD facilities outside of the United States; **Pages H4498–H4503**

Tauscher amendment No. 4 printed in H. Rept. 108–120 was offered that seeks to transfer Robust Nuclear Earth Penetrator program funding of $15 million and advanced concepts initiative activities funding of $6 million to conventional programs to defeat hardened and deeply buried targets; **Pages H4503–06**

Goss amendment No. 6 printed in H. Rept. 108–120 was offered that seeks to require a report from the Secretary of Defense on appropriate steps that can be taken in response to foreign governments who initiate legal actions against current or former officials of the United States or members of the Armed Forces relating to the performance of their official duties; **Pages H4507–08**

Saxton amendment No. 8 printed in H. Rept. 108–120 was offered that seeks to repeal the statutory requirement that the United States defense attache to France must hold, or be on the promotion list, the grade of brigadier general or rear admiral, lower half; **Pages H4509–10**

The House agreed to H. Res. 245, the rule that is providing for consideration of the bill by recorded vote of 224 ayes to 200 noes, Roll 202. Earlier agreed to order the previous question by yea-and-nay vote of 225 yeas to 203 nays, Roll No. 201. **Pages H4387–98**

Order of Business Suspensions: The Chair announced that proceedings will resume on May 22 on the motions to suspend the rules and pass H.R. 1683, Veterans' Compensation Cost-of-Living Adjustment: and H.R. 1257, Selected Reserve Home Loan Equity Act, both originally considered on May 20. **Page H4511**

Recess: The House recessed at 9:08 p.m. and reconvened at 11:45 p.m. **Page H4525**

Quorum Calls—Votes: Three yea-and-nay votes and three recorded votes developed during the proceedings of the House today and appear on pages H4397, H4397–98, H4398, H4399, H4497–98, and H4498. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 11:46 p.m.

Committee Meetings

WTO—NEGOTIATIONS ON AGRICULTURE STATUS

Committee on Agriculture: Held a hearing to review the status of the World Trade Organization Negotiations on Agriculture. Testimony was heard from Ann M. Veneman, Secretary of Agriculture; and Robert B. Zoellick, U.S. Trade Representative.

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing and Related Programs held a hearing on Millennium Challenge Corporation. Testimony was heard from the following officials of the Department of State: Alan P. Larson. Under Secretary, Economic, Business and Agricultural Affairs; and Andrew S. Natsios, Administrator, AID.

LEGISLATIVE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Legislative held a hearing on the Architect of the Capitol (Not Capitol Visitor's Center). Testimony was heard from Alan M. Hantman, Architect of the Capitol.

TRANSPORTATION, TREASURY AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation, Treasury and Independent Agencies held a hearing on Benefits and Costs of Transportation Options. Testimony was heard from Charles Nottingham, Associate Administrator, Policy, Federal Highway Administration, Department of Transportation; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Financial Services: Ordered reported the following bills: H.R. 23, Tornado Shelters Act; H.R. 1276, amended, American Dream Downpayment Act; H.R. 1614, HOPE VI Program Reauthorization and Small Community Main Street Rejuvenation and Housing Act of 2003; and H.R. 2120, Financial Contracts Bankruptcy Reform Act of 2003.

FUTURE OF KOSOVO

Committee on International Relations: Held a hearing on the Future of Kosovo. Testimony was heard from Janet L. Brogue, Deputy Assistant Secretary, Bureau of European and Eurasian Affairs, Department of State; Daniel Serwer, Director, Balkans Initiative, U.S. Institute of Peace; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following measures: H.J. Res. 4, proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States; H.R. 361, amended, Sports Agent Responsibility and Trust Act; H. Res. 193, reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003; and H.R. 1115, amended, Class Action Fairness Act of 2003.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Committee on Rules: Granted, by voice vote, a structured rule on H.R. 1588, National Defense Authorization Act for Fiscal Year 2004, providing for further consideration of the bill. The rule makes in order only those amendments printed in the Rules Committee report accompanying the resolution and amendments en bloc described in section 2 of the resolution. The rule provides that amendments printed in the report shall be considered only in the order printed in the report (except as specified in section 3 of the resolution), may be offered only by a Member designated in the report, shall be considered as read and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule provides that each amendment printed in the report shall be debatable for 10 minutes (unless otherwise specified in the report) equally divided and controlled by the proponent and an opponent and shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment). The rule waives all points of order against amendments printed in the report and those amendments en bloc as described in Section 2 of the resolution.

The rule authorizes the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report, or germane modifications thereto, which shall be considered as read (except that modifications shall be reported), shall be debatable for 20 minutes equally divided and controlled between the chairman and ranking minority member of the Committee on Armed Services or their designees, and shall not be subject to amendment or demand for a division of the question. The rule provides that, for the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken and that the original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc. The rule allows the Chairman of the Committee of the Whole to recognize for consideration of any amendment printed in the report, out of the order printed, but not sooner than one hour after the chairman of the Armed Services Committee or his designee announces from the floor a request to that effect. Finally, the rule provides a motion to recommit with or without instructions.

SAME DAY CONSIDERATION— CONFERENCE REPORT JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003

Committee on Rules: Granted, by voice vote, a resolution waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The resolution applies the waiver to any special rule reported on the legislative day of Thursday, May 22, 2003, providing for consideration or disposition of H.R. 2, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 2003

Committee on Rules: Granted, by a vote of 8 to 3, a closed rule on H.R. 2185, to extend the Temporary Extended Unemployment Compensation Act of 2002 providing one hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill. The rule provides one motion to recommit with or without instructions.

MISCELLANEOUS MEASURES

Committee on Transportation and Infrastructure: Ordered reported the following bills: S. 703, to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the ''Carl T. Curtis National Park Service Midwest Regional Headquarters Building;'' H.R. 1082, to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the ''Birch Bayh Federal Building

and United States Courthouse;'' and H.R. 2115, amended, Flight 100—Century of Aviation Reauthorization Act.

The Committee also approved U.S. Army Corps of Engineers Survey resolutions.

SAFE AND FLEXIBLE TRANSPORTATIONEFFICIENCY ACT

Committee on Transportation and Infrastructure: Subcommittee on Highways, Transit, and Pipelines continued overview hearings on the Administration's Proposed Reauthorization bill (SAFETEA), (Part 111). Testimony was heard from Jenna Dorn, Administrator, Federal Transit Administration, Department of Transportation.

HOMELAND SECURITY SCIENCE ANDTECHNOLOGY PREPARING FUTURE

Select Committee on Homeland Security: Subcommittee on Cybersecurity, Science, and Research and Development held an oversight hearing on ''Homeland Security Science and Technology: Preparing for the Future.'' Testimony was heard from Charles McQueary, Under Secretary, Science and Technology, Department of Homeland Security.

Joint Meetings

U.S. ECONOMY

Joint Economic Committee:

Committee concluded hearings to examine the state of the U.S. economy and future economic policy, focusing on dividend tax relief and capped exclusions, deflation, and small business tax rates, after receiving testimony from Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System.

COMMITTEE MEETINGS FOR THURSDAY, MAY 22, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine federal funding for stem cell research, 9:30 a.m., SR–418.

Subcommittee on Agriculture, Rural Development, and Related Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Agriculture and the Food and Drug Administration, Department of Health and Human Services, 9:30 a.m., SD–192.

Subcommittee on Interior, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Energy, 9:30 a.m., SD–124.

Subcommittee on Transportation, Treasury and General Government, to hold hearings to examine proposed budget estimates for fiscal year 2004 for highway safety initiatives, 10:30 a.m., SD–138.

Committee on Banking, Housing, and Urban Affairs: to hold oversight hearings to examine the economy, focusing on increasing investment in the equity markets, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: to continue hearings to examine media ownership, 10 a.m., SR–253.

Full Committee, to hold closed hearings to examine proposed legislation authorizing funds for programs of the National Highway Traffic Safety Administration, Department of Transportation, 2:30 p.m., SR–253.

Subcommittee on Communications, to hold hearings to examine wireless broadband in rural areas, 2:30 p.m., SD–562.

Committee on Foreign Relations: to hold hearings to examine Iraq stabilization and reconstruction, focusing on U.S. policy and plans, 2:30 p.m., SD–106.

Committee on Indian Affairs: to hold oversight hearings to examine the status of telecommunications in Indian Country, 10 a.m., SR–485.

Committee on the Judiciary: business meeting to consider S. 554, to allow media coverage of court proceedings, S. 1023, to increase the annual salaries of justices and judges of the United States, S. 858, to extend the Abraham Lincoln Bicentennial Commission, S. Res. 136, recognizing the 140th anniversary of the founding of the Brotherhood of Locomotive Engineers, and congratulating members and officers of the Brotherhood of Locomotive Engineers for the union's many achievements, S. Res. 92, designating September 17, 2003 as ''Constitution Day'', S. Res. 145, designating June 2003, as ''National Safety Month'', S. Res. 133, condemning bigotry and violence against Arab Americans, Muslim, Americans, South-Asian Americans, and Sikh Americans, and the nominations of Michael Chertoff, of New Jersey, to be United States Circuit Judge for the Third Circuit, David G. Campbell, to be United States District Judge for the District of Arizona, Robert D. McCallum, Jr., of Georgia, to be Associate Attorney General, Peter D. Keisler, of Maryland, and R. Hewitt Pate, of Virginia, both to be an Assistant Attorney General, and David B. Rivkin, Jr., of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States, 9:30 a.m., SD–226.

Full Committee, to hold hearings to examine the nominations of Richard C. Wesley, of New York, to be United States Circuit Judge for the Second Circuit, J. Ronnie Greer, to be United States District Judge for the Eastern District of Tennessee, Thomas M. Hardiman, to be United States District Judge for the Western District of Pennsylvania, Mark R. Kravitz, to be United States District Judge for the District of Connecticut, and John A. Woodcock, Jr., to be United States District Judge for the District of Maine, 2 p.m., SD–226.

House

Committee on Agriculture, Subcommittee on General Farm Commodities and Risk Management, hearing to review the financial status of the Crop Insurance industry, 10 a.m., 1300 Longworth.

Committee on Appropriations, Subcommittee on Commerce, Justice, State, Judiciary and Related Agencies, on Impact of Chinese Imports on U.S. Companies, 10 a.m., 2359 Rayburn.

Subcommittee on Homeland Security, on Screener Background Investigations, 3 p.m., 2358 Rayburn.

Committee on Energy and Commerce, Subcommittee on Health, hearing entitled "National Institutes of Health: Decoding our Federal Investment in Genomic Research," 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing entitled "The Long and Short of Hedge Funds: Effects of Strategies for Managing Market Risk," 10 a.m., 2128 Rayburn.

Subcommittee on Housing and Community Opportunity, hearing entitled "The Section 8 Housing Assistance Program: Promoting Decent Affordable Housing for Families and Individuals who Rent," 2 p.m., 2128 Rayburn.

Committee on Government Reform, hearing and markup of H.R. 2086, Office of National Drug Control Policy Reauthorization Act of 2003, and to mark up the following measures: H.R. 2122, Project BioShield Act of 2003; H.R. 2087, Bob Hope American Patriot Award Act of 2003; H. Con. Res. 162, honoring the city of Dayton, Ohio, and its many partners, for hosting "Inventing Flight: The Centennial Celebration," a celebration of the centennial of Wilbur and Orville Wright's first flight; H.R. 1465, to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office;" H.R. 1610, to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building"; H. Res. 159, expressing profound sorrow on the occasion of the death of Irma Rangel; H. Res. 195, congratulating Sammy Sosa of the Chicago Cubs for hitting 500 major league home runs; and H.R. 2030, to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building," 10 a.m., 2154 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, hearing on H.R. 1428, Bankruptcy Judgeship Act of 2003; followed by a markup of H.R. 49, Internet Tax Nondiscrimination Act, 11 a.m., 2237 Rayburn.

Subcommittee on Courts, the Internet and Intellectual Property, to mark up H.R. 1561, United States Patent and Trademark Fee Modernization Act of 2003, 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on the following measures: H.R. 2048, International Fisheries Reauthorization Act of 2003; and H. Res. 30, concerning the San Diego long-range sportfishing fleet and rights to fish the waters near the Revillagigedo Islands of Mexico, 10 a.m., 1334 Longworth.

Subcommittee on Water and Power, hearing on the following bills: H.R. 1598, Irvine Basin Surface and Groundwater Improvement Act of 2003; and H.R. 1732, Williamson County Water Recycling Act of 2003, 10 a.m., 1324 Longworth.

Committee on Small Business, to mark up H.R. 923, Premier Certified Lenders Program Improvement Act, 9:30 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, hearing on the Coast Guard and Maritime Transportation Act of 2003, 10 a.m., 2167 Rayburn.

Subcommittee on Water Resources and Environment, hearing on Water: Is it the "Oil" of the 2lst Century? 2 p.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Health, hearing on long-term care programs in the Department of Veterans Affairs, 1:30 p.m., 334 Cannon.

Permanent Select Committee on Intelligence, executive, hearing on the FBI National Security Programs Budget, 1 p.m., H–405 Capitol.

Subcommittee on Intelligence Policy and National Security, executive, briefing on Global Intelligence Update, 9 a.m., H–405 Capitol.

Select Committee on Homeland Security, to continue hearings entitled "How is America Safer? A Progress Report on the Department of Homeland Security," 9 a.m., 2318 Rayburn.

Joint Meetings

Conference: meeting of conferees on S. 342, to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, 11 a.m., SD–430.

Next Meeting of the **SENATE**

9:30 a.m., Thursday, May 22

Senate Chamber

Program for Thursday: Senate will continue consideration of S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Thursday, May 22

House Chamber

Program for Thursday: Consideration of a motion to go to conference on H.R. 2, Jobs and Growth Tax Relief Reconciliation Act;

Further Consideration of H.R. 1588, National Defense Authorization for Fiscal Year 2004 (structured rule); and

Consideration of H.R. 2185, Unemployment Compensation Amendments of 2003 (closed rule, one hour of debate).

Extensions of Remarks, as inserted in this issue.

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