House of Representatives

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004—Continued

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the modifications be considered as read and printed in the Record.

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

There was no objection.

The CHAIRMAN pro tempore. Pursuant to House Resolution 247, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. WELDON).

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. WELDON), chairman of the Subcommittee on Tactical Air and Land Forces, and the vice-chairman of the full committee.

(The Subcommittee on Tactical Air and Land Forces asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank my chairman for yielding time to me.

If for no other reason, I would ask my colleagues to look at this amendment en bloc because it contains perhaps one of the most significant pieces of legislation that we have passed in this Congress.

Approximately 1 month ago, 25 Members of Congress, including the gentleman from Texas (Mr. EDWARDS) and I, introduced the Nuclear Security Initiative Act of 2003. This bill is the first major, comprehensive expansion of our efforts to work with the former Soviet states to take away the threat of the use of weapons of mass destruction.

The bill authorizes $78 million of funding, but, more significantly, includes a whole vast, new array of engaging the Russians, including the establishment of a Duma-Congress initiative to focus together on nonproliferation, the establishment of fellowships between the Kurchatov Institute and Lawrence Livermore Laboratory to focus on nonproliferation, the killing in our policy to work with NATO and the elimination of theater missile defenses, to work with the Russians on early warning, the Nunn-Lugar program, to expand that, to create a Teller-Kurchatov alliance for peace to work together, to provide more in the inherent accountability and transparency on how we spend money in Russia to take apart these weapons of mass destruction.

This particular bill, which is in fact as it was introduced, H.R. 1719, was endorsed by the Heritage Foundation, the Carnegie Endowment for Peace, the Nuclear Threat Reduction Initiative, Sam Nunn’s group, the Physicians for Social Responsibility, all coming together, along with the Vietnam Veterans Foundation, saying this is the direction we should be moving in.

My colleagues on both sides of the aisle, including the gentleman from California (Mr. COX) on the Republican side, are original sponsors.

It is a major step forward, a major step forward for this Congress, for this body in taking the lead on helping to secure these weapons of mass destruction. I thank the distinguished chairman.

Mr. Chairman, I include for the Record letters from top Russian leaders thanking this Congress for taking this bold step, including one letter I received yesterday signed by 30 of the top leaders in the Russian Duma thanking this Congress for its leadership role in helping to provide a vision for a new relationship with Russia that goes beyond the Nunn-Lugar program, that allows us to truly establish a new framework in dealing with the issues of weapons of mass destruction that still exists within the bounds of the former Soviet states.

The letters referred to are as follows:

Hon. CURT WELDON, Member of Congress, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WELDON. With satisfaction we knew about your new initiative (a Bill) towards higher cooperation with the Russian Federation on nonproliferation of nuclear weapon and other weapons of mass destruction.

We think that the Russian Federation and the United States as the countries, which possess the biggest inventories of nuclear warheads, are responsible to the world future in the matter of deterrence and nonproliferation.

The especially important role belongs to transition of the nuclear warhead industry to peaceful aims—development of ecologically clean nuclear energy. The Russian and American scientists are especially responsible for this. That is why establishment of the Teller-Kurchatov Alliance for Peace may be an important and useful step. It would be also extremely important to engage students, post-graduates, and young scientists in this work.

We consider that establishment of the Nuclear Treaty Reduction Working Group as a subgroup of Duma-Congress Group will help to set up a new control on international and national programs in this field.

Dear Mr. Weldon, we wish you success in your initiative promotion, and you can count on our understanding and assistance.

With best regards,

Hon. CURT WELDON, Member Of Congress, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WELDON: We welcome your new initiative (a Bill) towards higher cooperation with the Russian Federation on nonproliferation of nuclear weapon and other weapons of mass destruction.

We believe that the Russian Federation and the United States specially account for the world future in the matter of deterrence and nonproliferation being the countries, which possess the biggest inventories of nuclear warheads.

The very important matter is to redirect the nuclear warhead industry to peaceful
aims—development of ecologically clean nuclear energy. The especially important role belongs to the Russian and American Scientists in this process. That’s why establishment of the Teller-Kurchatov Alliance for Peace may be an important and useful step. It would be also extremely important to engage students, post-graduates, and young scientists in this work.

We expect that establishment of the Nuclear Treat Working Group as a subgroup of Duma-Congress Group will help to strengthen the control on international and national programs in this field.

Dear Mr. Weldon, we wish you success in your initiative promotion, and you can count on our understanding and assistance.

Sincerely,

VAISLY F. KUZNETSOV,
Deputy of the State Duma.

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Member of Congress, House of Representatives,
Washington, DC

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VALENTINA N. PIVNENKO,
Chairman of the Committee on the Problems of the North and the Far East of the State Duma.

Mr. Chairman, I thank the chairman for his untiring cooperation, and I thank the ranking member for his cooperation in making sure that together we can bring this package forward.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to support the Kline amendment, but I believe we need to point out the realities of this legislation.

Mr. Chairman, this amendment provides the Secretary of Education with the authority to waive certain statutory or regulatory provisions relating to student aid for higher education to benefit our Armed Forces personnel. That would be also extremely important to engage students, post-graduates, and young scientists in this work.

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VAISLY F. KUZNETSOV,
Deputy of the State Duma.
with me or members of the committee staff or asked that any action be taken by the Committee on Agriculture.

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

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

Mr. HUNTER. Mr. Chairman, I would pledge to work to see that we have a balanced result coming out of the conference and that we work with the gentleman and the other gentlemen who have spoken on this amendment.

Mr. HEFLEY. Let me just say, I am sorry about the procedure, but this bill has been sitting in these two committees for 2 years. We have a fire season coming up again, and we need to focus all the assets we can.

When we have a war and when we have a blazing fire, and that is a war, we want all the assets we can get on it. It is predicted we will have 30 percent less assets this year than we had last year in terms of planes because many of the assets have been grounded, so we need to solve this and we need to solve it now, not put it off for another year or two.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. KILDEE).

Mr. ACKERMAN. Mr. Chairman, I rise in support of the en bloc amendment.

I want to thank the chairman of the Committee, the gentleman from California (Mr. HUNTER) and the ranking minority member, the gentleman from Missouri (Mr. SKELTON), for their work on this year's National Defense Authorization Act.

Mr. Chairman, my amendment, which is included in the en bloc, is short and simple. It encourages the Secretary of Defense and the U.S. Navy to work with their Israeli counterparts to make arrangements for safe port visits by the U.S. Sixth Fleet to Haifa, and I hope arrangements can be made, to resume the regular visits to Haifa that used to occur.

To be clear, the amendment does not require the resumption of visits by the Sixth Fleet to Haifa and does not encourage such visits unless appropriate means can be agreed upon to protect our ships and personnel.

Mr. Chairman, Israel, like our nation, is confronting terror. The visits of our Navy ships to Israel's chief port will send a powerful message of support and make clear our Nation's bedrock commitment to the survival of the only real democracy in the Middle East.

I want to thank the chairman and the ranking member for their support, and I encourage Members to support the amendment.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of this broad amendment before us. Included in this package is the text of H.R. 1412, the Higher Education Relief Opportunities for Students Act of 2003, or the HERO. This legislation passed the House overwhelmingly on April 1, and I urge its inclusion here to ensure its enactment into law.

As we know, members of our National Guard and Reserves are also students. This amendment will bring assurance to those men and women by providing the Secretary of Education with the authority to waive certain rules and requirements to ensure that as a result of war, military operation, or national emergency, they are protected from hardship in relation to their education or for their student aid obligations. It is crucial that our military and others are protected while the integrity of the student aid programs remain intact.

I thank my colleague, the gentleman from Michigan (Mr. KILDEE), for his support. I urge all of my colleagues to support this amendment, and I thank the chairman of the Committee, the gentleman from California (Mr. HUNTER), for his support here.

Mr. TIERNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have introduced the Build America Act Amendment, which is a step towards ensuring that the United States defense jobs are performed by United States defense workers. American defense workers are 100 percent committed to our Armed Forces and to ensuring that America has the best-trained, best-equipped, and best-led forces in the world.

Unfortunately, over the past 15 years, defense-related employment has fallen by 67 percent. That translates into over 1 million jobs lost. We need to do more to reverse this disturbing trend, and we must do more.

Just as we in Congress continue to fulfill our patriotic promise to our men and women in uniform, we must also demonstrate our equal commitment to those men and women who wear a different kind of uniform, those who build, repair, and operate the machines that sustain and strengthen our security here at home.

The Build America Amendment, which is part of the Defense Base Industrial and Export Enhancement Act, seeks information on why contracts are transferred outside this country and mandates an action plan on how this critical sector can be revitalized and restored.

The amendment stands in solidarity with our workers, finding out where jobs have gone and fighting to keep them in this country.

Mr. Chairman, I thank the chairman and the ranking member for their fine work on this bill and this section in particular.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from the great State of Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I rise today in support of this amendment en bloc but particularly to an amendment that I offered which supports our Nation's reservists.

In the event of a domestic terrorism attack this country's reservists, particularly the National Guard and the weapons of mass destruction team, could be called upon at any time to protect and defend their fellow citizens, working with their fellow first responders across the country, police and firemen.

It would be an action both the first response to a domestic terrorism attack will qualify reservists for hostile fire and imminent danger pay. Ultimately, it is a matter of appreciation for the service to our Nation's Reserve forces. I hope all of you will join in supporting this amendment.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I would like to thank the fine gentleman from Missouri (Mr. SKELTON) for yielding me time to the ranking member on Defense, and also the chairman, my good friend, the gentleman from California (Mr. HUNTER), for allowing the inclusion in the en bloc amendment, our Build America Enhancement Provisions as well as our Technical Assistance Provisions.

Let me just say that these dual amendments direct and require the Department of Defense to consciously at the highest level support the continuation and enhancement of our domestic industrial manufacturing capabilities, particularly those defense industrial companies that are essential to war production and face stiff foreign competition. It specifies that when application of the Buy American Act is inconsistent with the public interest, the Defense Secretary shall not consider the provision of this amendment between the U.S. and a foreign country that is in effect at the time of the determination.

We particularly ask the Department of Defense to focus on critical technologies such as industrial molds, special dies and tools, cutting tools and machine tools, and machine tools and accessories. Of course, in the foundry area, attention is needed as well.

The technical assistance provisions and the center that is proposed will also require the Department to reach out to the over 7,000 such firms in our country that comprise our defense industrial base, many of them small and medium sized companies, and connect them directly to the Department of Defense so that contracts and sub-contracts have broad application, and small and medium size businesses are included.

The dual amendments thus require both a “topdown” and “bottomup” approach by the Department to engage this critical sector of U.S. defense manufacturing.

I want to thank the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELAZQUEZ) for their wonderful investigative work on the Committee on
Small Business that has supported strongly the necessity for these provisions.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Connecticut (Mr. SIMMONS) who is a member of the committee and has a great defense background. (Mr. SIMMONS asked and was given permission to revise and extend his remarks.)

Mr. SIMMONS. Mr. Chairman, I thank the gentleman for yielding me time. I support this amendment wholeheartedly in part because it contains a provision requesting a report from the Secretary of Defense which I have requested dealing with the issuance of security clearances and updates on security clearance for defense workers.

My district has literally thousands of defense workers producing the very best submarines in the world. But under a recently passed law which we refer to as the Smith Act, some of these workers run the risk of losing their clearances for activities that took place many, many years ago and, yet, under the provisions of the Smith Act, may result in denial of a clearance which for them results in denial or loss of a job.

I look forward to the report which this amendment requests so that we can work to eliminate this unintended consequence of the Smith Act.

Mr. Chairman, I yield today in support of the en bloc amendment being offered by Chairman DUNCAN HUNTER.

This amendment contains many important provisions. It includes language I authored to require the Secretary of Defense to report to Congress on the granting or renewal of security clearances for Department of Defense personnel and defense contractor personnel.

Those Members of Congress with Department of Defense contractors in their districts know the importance of a security clearance to the men and women who work for those contractors. As someone who has held a TOP SECRET clearance for over 30 years, I fully understand the importance of issuing these clearances to defense contractors and their employees.

My district is home to Electric Boat where thousands of hard working people show up every day to design and build the finest submarines in the world. Every 5 years Electric Boat workers are put through a necessary re-verify of their security clearances, which I support.

Unfortunately, a recent law contained language commonly known as the “Smith Act” which requires any person convicted of a crime and sentenced to one year or more in jail to be automatically disqualified from holding a security clearance. The law does not take into account whether the individual actually served the sentence. But, the law says conviction means no clearance, and no clearance means no job.

Mr. Chairman, over the past year many highly skilled veteran workers from Electric Boat have approached my district office, frightened that a conviction in their youth will suddenly come back to haunt them and cost them their job. These are men and women who have often held their security clearances for over 20 years. But because of the Smith Act, those clearances are now in jeopardy.

These working men and women have families and contribute positively to their communities, both in eastern Connecticut and around the world. I ask you to support the proposed changes that Congressman Simmons has drafted. These improvements to the Smith Act will go a long way toward saving thousands of valuable workers.

Thank you for taking my thoughts into consideration. We at Electric Boat appreciate everything that you and your Committee have done for the submarine capital of the world.

Sincerely, KENNETH DELACRUZ, President.

DEAR MR. HUNTER: Electric Boat Corporation enthusiastically supports the efforts of Congressman Robert Simmons to amend TITLE 10 > Subtitle A > Part II > chapter 49 > Sec. 986, Title: “Security Clearances Limitations” of the “Smith Amendment.” In particular we support the proposed change to Paragraph (c)(1) which presently states: “Persons Disqualified From Being Granted Security Clearances—persons described in this subsection if any felony conviction applies to that person: (1) The person has been convicted in any court of the United States of a crime and sentenced to imprisonment for a term exceeding one year.”

Electric Boat supports Congressman Simmons’ proposal that the language in Paragraph (c)(1) be changed to reflect that an individual be disqualified from being granted a security clearance if they have been convicted in any court of the United States of a crime and subsequently served a sentence of a year and a day or greater.

Electric Boat supports retaining the other three disqualifying categories in Section (c). Electric Boat Corporation is a DOD contractor performing on classified contracts for the United States Navy. Our primary business focus is the design, manufacture and maintenance of United States Navy nuclear submarines. The nature of our contracts, and the type of work we perform, requires that virtually all 10,000 employees be eligible to receive and maintain a DOD security clearance. In accordance with the requirements of the Defense Industrial Security Clearance Program, individuals who hold an active clearance must undergo a periodic reinvestigation of the Smith Amendment in its present form adversely affects Electric Boat because it states that the “. . . Department of Defense may not grant or renew a security clearance for a person who has been convicted of a crime and sentenced to imprisonment for a term exceeding one year.” Unfortunately, a number of Electric Boat employees who hold active/final DOD clearances either are, or will be, negatively impacted by this law. In those circumstances, an “infinitesimal” sentence during judicial proceedings, they actually served no time or less than one year due to the circumstances of the law in their particular cases. They should be generalized (in many cases years later) under legislation that was passed without considering this important distinction.

In behalf of the defense contractors for Electric Boat employees, and many other employees of defense contractors who are adversely affected

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by this law, Electric Boat supports Congress- 
man Simmons’ recommended amendments to 
this legislation. 

M. W. Toner, 
Present. 
The following is an example of an Electric 
Boat employee who is subject to lose her 
DOD Secret clearance as a result of the 
Smith Act. This individual was identified 
because her clearance was up for renewal/peri-
dic reinvestigation. 
Example (1): This employee is a valued 
member of management as a trade super-
intendent in the shipyard. She began her 
employment in the trades as a welder in 1974. 
Before starting work with Electric Boat in 
1974, the individual was convicted of a drug 
and offense and sentenced to 18 months. The 
terms of his suspension were placed on pro-
bation, and he never served any time in jail. 
The individual has an outstanding work 
record over the course of the last 29 years. Of 
greatest significance, he has held a DOD Se-
cret clearance for virtually all of her period of 
employment and has had her clearance 
status periodically reinvestigated several 
times without an issue.

Mr. Skelton. Mr. Chairman, I yield 
1 minute to the gentleman from New 
York (Mr. Nadler).

Mr. Nadler. Mr. Chairman, I thank 
the gentleman for yielding me time. I 
thank the chairman and ranking mem-
ber for including in this en bloc amend-
ment, which I support, my amendment 
which I will address now.

Mr. Chairman, the greatest danger 
this country faces is that al Qaeda or 
some other terrorist group will get 
uclear weapons. The greatest danger of 
that happening is that they will get 
uranium, grade material from the 
former Soviet Union, which has enough 
weapons-grade plutonium and uranium to 
manufacture 40,000 nuclear weapons 
lying around, not guarded properly and 
safe, and subject to theft or sale on the black 
market.

What we ought to do is buy all this 
material from the Russians from be-
tween 25 to $30 billion so we can take 
possession of it and protect it from 
thief or sale.

My amendment requires the Sec-
retary of Defense to submit a study to 
Congress examining the costs and bene-
fits of purchasing all the ex-Soviet 
Union’s weapons-grade plutonium and 
uranium in fiscal year 2005 and safe-
guards to it from smuggling or theft 
until it can be rendered unusable for 
weapons.

I am glad that this study of doing 
what I regard as essential to protect 
this country from the possibility of al 
Qaeda having a nuclear weapon with 
which to attack us is included in this 
amendment and I, therefore, support it.

Mr. Hunter. Mr. Chairman, I yield 
1 minute to the gentleman from Ne-
braska (Mr. Porter).

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

Mr. Porter. Mr. Chairman, I rise 
today to thank the chairman for in-
cluding my amendment. The Depart-
ment conducts studies on the ef-
fects of perchlorate on human beings. 
Perchlorate, a major ingredient in 
rocket fuel and other military ord-
nance, has been found in the water of 
many western States, including my 
district in Nevada, as well as the chair-
man’s home State of California.

The EPA is currently in the process 
of determining a safe amount of per-
chlorate in drinking water. Right now 
no one knows if even a level of one 
part per billion is safe. What level of 
perchlorate is found will have a major 
impact in the water districts, costing 
them potentially billions of dollars in 
technology to meet the standards.

I must add there can be no substitute 
for clean drinking water for children. 
And whatever level is found to be safe, 
Congress must help our communities 
to meet this needs. The major source of 
perchlorate comes from current and 
former defense industrial sites, includ-
ing in my district. The Department of 
Defense is potentially liable for the 
cost of perchlorate cleanup at some or 
all of these sites. Given that, and that 
the perchlorates primarily were made 
for DOD orders, it is only fair that the De-
partment contribute to the ongoing 
research on the possible health ef-
forts of this chemical.

I rise today to thank Chairman Hunter for 
including my amendment requiring the De-
partment to conduct studies on the 
effects of perchlorate on human beings.

Perchlorate, a major ingredient in rocket 
and other military ordnance, has been found in 
the water of many Western States, including 
my district of Nevada, as well as in the chair-
man’s home state of California.

The Environmental Protection Agency is 
currently in the process of determining the 
safe amount of perchlorate in drinking water, 
but right now no one knows what, if any, level 
above 1 part per billion is safe.

What level of perchlorate is found safe 
will have a major impact on water districts, costing 
them potentially billions of dollars in technology 
to meet new standards.

I must add that there can be no substitute 
for clean drinking water for children, and 
that whatever level is safe, Congress 
must provide the help our communities 
need to achieve this.

The major source of perchlorate comes from 
current and former defense industrial sites, 
including my district.

The Department of Defense is potentially 
liable for the cost of perchlorate cleanup at 
some or all of these sites. Given that, and that 
the perchlorates primarily were made for DoD orders, 
it is only fair that the Department 
contribute to the ongoing 
research on the possible health effects of this chemical.

The Senate Armed Services Committee has 
already passed, with a bipartisan majority, 
identical language to my amendment. I thank 
the chairman for including this amendment 
and look forward to working with him in the 
future.

Mr. Hunter. Mr. Chairman, how 
much time remains?

The CHAIRMAN pro tempore (Mr. LaHood). The gentleman from Cal-
ifornia (Mr. Hunter) has 15/2 minutes re-
main.

Mr. Skelton. Mr. Chairman, may 
I make the same inquiry. How much 
time do we have?

The CHAIRMAN pro tempore. The 
gentleman from Missouri (Mr. Skel-
ton) has 4 minutes remaining.

Mr. Skelton. Mr. Chairman, I yield 
1/2 minutes to the gentlewoman from 
California (Mrs. Capps).

Mrs. Capps. Mr. Chairman, I thank 
your colleague for yielding me time. I 
acquiesce to engage the distinguished gen-
tleman from Nevada (Mr. Porter) in col-
loquy to clarify his amendment which is 
included in the en bloc amend-
ment.

This amendment requires the Sec-
retary of Defense to reach an agree-
ment with another Federal agency, 
namely the National Institutes of Health 
and the Centers for Disease Control as 
preferred candidates to conduct an 
independent epidemiological study of 
the effects of perchlorate on humans. It 
is my understanding that this study 
would not be done by the Department of 
Defense or the Office of Energy; am I correct?

Mr. Porter. Mr. Chairman, the gentle-
woman from Nevada.

Mrs. Capps. That is correct.

Mr. Skelton. Mr. Chairman, I yield 
1 minute to the gentleman from New 
York (Mr. Nadler).

Mr. Nadler. Mr. Chairman, I thank 
your colleague for including this study in the 
Department of Defense or the Department of 
Energy; am I correct?

Mr. Porter. That is correct.

Mrs. Capps. It is also my under-
standing that the gentleman’s inten-
tion in requiring this independent Fed-
eral study of perchlorate is to add to the 
scientific database on this chem-
ical. I understand that your amend-
ment is not intended to delay the set-
ting of a drinking water standard for 
perchlorate or to delay any cleanup at 
any site that may have perchlorate 
contamination. Is my understanding 
correct?

Mr. Porter. That is correct.

Mrs. Capps. Mr. Chairman, I thank 
your colleague from Nevada (Mr. Por-
ter) for this clarification.

Mr. Hunter. Mr. Chairman, I yield 
a challenging 15 seconds to the gen-
tleman from Georgia (Mr. Kingston).

Mr. Kingston. Mr. Chairman, I thank 
your colleague for such a gener-
os allocation of time. I just want to 
say that I believe this amendment is very 
important because I have his and the 
ranking member’s support. All it says is in the event of BRAC, if they 
close down a base, the roads will stay 
open to the local folks, and that will be 
very important to offset the impact of 
a base closure.

Mr. Skelton. Mr. Chairman, I yield 
1 minute to the gentlewoman from 
California (Ms. Woolsey).

Ms. Woolsey. Mr. Chairman, I want 
to thank the ranking member and the 
chairman for working with me and my 
colleagues, the gentleman from Iowa (Mr. Leach) and the gentleman from 
Pennsylvania (Mr. Platts), to include 
in our amendment in the en bloc amend-
ment.

Our bipartisan Sense of the Congress 
amendment calls on the Department of 
Defense to have an institution devoted 
to studying peacekeeping operations 
and preparing our troops for future 
peacekeeping missions. We have consis-
tently borne witness to the dramatic 
challenges facing our troops right now 
in Afghanistan and in Iraq as they 
work to secure the peace, from acting
as traffic cops to feeding hungry crowds.

Our amendment aims to ensure that these troops are prepared for peace as much as they are ready for war.

Mr. HUNTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. ROGERS), who has a presentation he wants to make.

Mr. ROGERS of Michigan. Mr. Chairman, I have an important story to tell in a very brief time.

The person you will see here today is named Hannan Shahib, a young girl, 15 years old, severely burned in a coalition bombing. Because of the heroic action of our military soldiers on the ground, she was able to survive this, keep her arm due to their great work, and is now at the University Hospital in Michigan receiving treatment.

We have been after the DOD for some time to help us facilitate more of these injured Iraqi children. And I will tell you, when this gal got up off the stretcher to walk to that airplane all on her own, all of these soldiers in that tent, and I happened to be there that day, there were cheers and tears and every one of those soldiers realized that they were there as liberators and not conquerors.

But I tell you what, Mr. Chairman, when we went to the Department of Defense, the bureaucrats down the road, the only tears were frustration. We are getting calls now from different sectors came together to make this happen. We cannot get any help out of the bureaucrats down the road, the only tears were frustration. We are getting calls now from different bureaucrats down the road, the only tears were frustration.

We need to show the Iraqi people that we are getting ready to lose their limbs. Her mother told me just the other day this last weekend that when she calls home there are other folks who are there getting ready to lose their limbs.

This is only due to a lack of decision on behalf of the Department of Defense.

The military folks on the ground are doing the right thing. They are standing up, they are showing compassion. They are reaching out. We need to do this, Mr. Chairman. We need an answer from DOD. We need them to stand up and do the right thing and stand up for those soldiers in the field who are doing miraculous things.

Mr. HUNTER. Mr. Chairman, how much time do we have left under the striking request?

THE CHAIRMAN pro tempore. The gentleman from Michigan has 1 minute left.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Chairman, the rule did not make in order an amendment that I sought with respect to cooperative threat reduction, but it does make in order an amendment offered by my good friend, the gentleman from Pennsylvania (Mr. WELDON), and I am here to offer my support for his amendment, which is included in the en bloc amendment.

This amendment is drawn from legislation introduced earlier this year by the gentleman from Pennsylvania, the Nuclear Security Initiative Act, which I was proud to cosponsor. As the gentleman from Pennsylvania said, this bill was in the works for a long time, and I can attest to that. In fact, parts of it come from provisions I introduced in prior years.

I commend the chairman of our committee for allowing this to be made in order, including it in the en bloc. I think it is a positive addition to the bill, and I encourage support for the en bloc amendment.

The rules governing debate on this defense bill make in order an amendment I offered with Rep. SCHIFF that would have restored the President's request on Cooperative Threat Reduction (CTR) programs by striking several provisions in the committee bill. Like the Administration, I believe these committee-added provisions will hamstring the program unnecessarily.

I was disappointed not to have the chance to debate the amendment, and I plan to work to strike those provisions in conference. And if I may, Mr. Speaker, I'd like to enter into the record an exception of Administration Policy on the committee bill.

The rule did, however, make in order an amendment offered by my friend from Pennsylvania, Mr. WELDON, and I am here to offer my support. This amendment is drawn from legislation I introduced earlier this year by Rep. WELDON, the “Nuclear Security Initiative Act,” which I was proud to cosponsor. As Mr. WELDON likes to say, the bill was in the works for a long time, and I can attest to that—in fact, it includes some provisions I introduced a few years with my colleague Rep. ELLEN TAUSCHER.

Like the bill, the Weldon amendment calls for enhanced cooperation between the U.S. and international partners to ensure the safety and security of our country and our allies.
and Russia to reduce the threat posed by weapons of mass destruction, and establishes what should be useful tools for improved collaboration toward that end.

It calls for some important studies, too, including an examination by the National Academy of Sciences of the impact of CTR and other non-proliferation programs of the myriad congressional oversight measures that have been established over the past several years.

I must confess I have mixed feelings about reducing the President’s request for CTR, even by the modest amount contained in the Weldon amendment. I do not oppose the shift of CTR activities into the Department of Energy’s companion threat reduction program, I can support it. And the amendment on balance, like the Weldon–Edwards–McHugh–Spratt bill it is drawn from, should strengthen our threat reduction and non-proliferation programs.

I urge support of the Weldon amendment. Mr. Chairman, I provide for the Record the statement of administration policy with respect to cooperative threat reduction.

From the Statement of Administration Policy issued May 22, 2003 Executive Office of the President Office of Management and Budget Budget Page 3:

Nonproliferation and Cooperative Threat Reduction The Administration appreciates full funding of the CTR budget request, but is very concerned about requirements imposed by the Committee that would hinder DOE’s and DOD’s ability to implement more rigorously and effectively Cooperative Threat Reduction (CTR) and Nuclear Nonproliferation activities. Furthermore, H.R. 1588 would limit the President’s flexibility to apply CTR resources to the most pressing nonproliferation emergencies in support of the Global War on Terrorism and would not clarify that DOE has the authority to carry out such activities outside states of the former Soviet Union.

Mr. SKELTON. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Chairman, I thank the gentleman for yielding me this time, and I also thank the chair of the committee for all his help with the provisions in this bill on strengthening the industrial base.

I also wanted to quickly comment on theTierney amendments, which is included in here, which will allow us to find out why the contractors are leaving the United States. The average taxpayer pays $1,000 a year that goes to build up our own industrial base, and I think the least we can do is make sure that those jobs are employed here in the United States.

I want to thank the chairman for all his work and also thank the ranking member, the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I move to strike the last word.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member, the gentleman from Missouri (Mr. HUNTER) and the staff for their hard work.

Mr. Chairman, I have an amendment that is part of the en bloc amendment that is before us at this time, and I urge Mr. Chairman, this challenge that I give is one that I hope will be not only instructive but it will open the doors of opportunity, and that is, of course, to small, minority and women-owned businesses. My amendment directs the Secretary of the Department of Defense to commission a study on the feasibility of using small, minority-owned businesses and women-owned businesses in the United States’ efforts to build and rebuild Iraq.

This is an operation that will cost billions of dollars. Obviously, as we look toward the future of peacekeeping, America asks the question of when, why and how, and would it not be better to ensure that the backbone of America’s businesses, medium-sized businesses, minority businesses, and women-owned businesses are part of the rebuilding of Iraq.

It is well-known that the culture of many of our nations in the Arab community are interested or have been used to dealing with smaller and more localized businesses. The business-to-business contact providing the opportunities to contract on behalf of the United States and to do the work in Iraq would be miraculous and outstanding. In looking at the work that has been distributed by the Department of Defense in 2003, the most recent statistics, we see that only $300 million is going to what we call hub zone businesses. I believe this amendment is going to be instructive and constructive.

Mr. Chairman, this is a study, but I hope that we can work through conference and work harder on that language that would really outreach to our small businesses, and I appreciate the gentleman’s assistance as we move toward conference.

Mr. SKELTON. Reclaiming my time, Mr. Chairman, I thank the gentlewoman; and she can be assured that we will work very hard to keep the provisions in the bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, if the gentleman will continue to yield, as I indicated, this focuses the opportunity to develop relationships and help rebuild Iraq. I hope we can strengthen it in conference and work with the chairman as we do so.

Mr. Chairman, I propose an Amendment to H.R. 1588, the “National Defense Authorization Act For Fiscal Year 2004.”

Under my amendment, “The Secretary of Defense shall commission a study of the feasibility of using small businesses, minority-owned businesses, and women-owned businesses in the United States efforts to rebuild Iraq. The study shall include the development of outreach procedures to provide, to small businesses, minority-owned businesses, and women-owned businesses, information on participating in rebuilding Iraq.”

The purpose of this amendment is to direct the Secretary of the Department of Defense to commission a study of the feasibility of using small, minority-owned businesses, and women-owned businesses in the United States’ efforts to rebuild Iraq. The study will develop outreach procedures to provide information on participating in rebuilding Iraq to minority-owned businesses and women-owned businesses.

During the course of cooperative discussions with the leadership of the House of Representatives’ Armed Services Committee, it was agreed that the language of my amendment would better serve the needs of the small, minority, and women-owned business community if there were revisions. My revised amendment would read, “The Secretary of Defense shall ensure that outreach procedures are in place to provide information to small businesses, minority-owned businesses, and women-owned businesses regarding Department of Defense requirements and contract opportunities for the rebuilding of Iraq.”

Both the Majority and Minority Party leadership agreed to work in conference to include the revised language in the final passage of the bill. This is a better formulation of the language suggested by the amendment, which protects small, minority, and women-owned businesses from unnecessary delay. In fact, the Leadership of the Armed Services Committee agreed to work “robustly” in conference, and with me to ensure that the revised language is in the final version of H.R. 1588, and to ensure that small, minority, and women-owned business participate fully in rebuilding Iraq.

The process of rebuilding Iraq is a monumental task that should include the participation of more than just the large, international corporations. Small, minority, and women-owned businesses are the backbone of our economy. Small businesses employ more members of the workforce than larger businesses. For example, according to 2000 Census statistics published by the Small Business Administration, 114.7 million employees worked at various businesses. Of that number, 81.95 percent of the employees worked at firms with between 20 and 100 employees. This is the majority of the American workforce. These hardworking men and women possess the expertise and experience to contribute to our efforts to rebuild Iraq. Furthermore, by promoting the participation of America’s small, minority, and women-owned businesses in the rebuilding of Iraq, we bolster our work force, alleviate the strains of unemployment, and strengthen our economy.

The Department of Defense has not allocated a substantial percentage of their contracts to small, minority, and women-owned businesses. In 2001, the Department of Defense awarded $135.8 billion in prime contracts. Only $7.8 billion went to small disadvantaged businesses, and only $3.0 billion went to women-owned small businesses. In subcontracts, the Department of Defense awarded a total of $60.5 billion. Of that sum, only $3.0 billion went to small disadvantaged businesses, and $2.5 went to women-owned small businesses.

I also recommend that the Department of Defense hold regional meetings around the country to inform small, minority, and women-
owned businesses of the Department of Defense’s contracting opportunities. It is imperative that these meetings be held in localities where the small businesses can easily attend. Holding the meetings in Washington, DC does not provide small, minority, and women-owned businesses with sufficient opportunity to attend. Holding regional meetings is encouraged, so that all contracting companies have the opportunity to participate.

The Department of Defense must also establish procedures to monitor the progress and implementation of their prime contracts. Contractor monitoring should be conducted on two fronts. First, the Department of Defense should monitor all of the prime and subcontractors that receive funding. Second, the prime contractors should also closely monitor the disbursement of funds to, and progress of, the small, minority, and women-owned businesses to ensure the funds are allocated to businesses owned, not simply staffed, by minorities and women.

It is also critical that the Department of Defense establish a system of accountability. It is not enough for prime contractors to agree to subcontract a portion of their award. There must be a follow-up mechanism, and a sanctioning mechanism. For example, if a prime contractor is awarded a Department of Defense contract based upon an agreement to subcontract 50 percent of the contract to minority, and women-owned businesses, it must ensure that the prime contractor fails to do so.

The Department of Defense can use the model established by USAID. USAID procures prime and subcontract for the rebuilding of Iraq, but also make substantial use of small, minority, and women-owned businesses. USAID is responsible for the purchase of over $2.5 billion of goods and services annually in support of U.S. foreign policy initiatives. As of May 12, 2003, USAID has provided $90.9 million for the reconstruction of Iraq. USAID also allocated $34.6 million was awarded to Bechtel to build infrastructure, $10 million to World Health Organization for health, $10 million to UNICEF for health and education, $7.9 million to Research Triangle Institute for local governance, and $7.1 million to Resources for personnel support. $4.8 million to Stevedoring Services of America for port management and administration, $4 million to the Air Force Contract Augmentation Program for theater logistical support, $2.5 million to SkyLink Air and Logistic Support for airport management and administration, $1 million to Creative Associates for education.

On May 21, 2003 at the Ronald Reagan Building here in Washington, DC Bechtel National, Inc. hosted a contractor-supplier conference for prime contractors of its project under USAID’s Iraq Infrastructure Reconstruction Program. The conference included an overview of Bechtel’s role in rebuilding Iraq, and the status of Bechtel’s support of USAID’s humanitarian assistance efforts. Bechtel also discussed maximizing Iraqi resources, presentations about women-owned subcontractors, and USAID’s policies requiring minority-owned businesses to meet internationally accepted standards. Bechtel’s telecommunications and other radio equipment used on/off-roll, container and other militarily useful vessels for the transport of military vehicles, supplies and other materiel in support of U.S. military operations around the world. I particularly commend Chairman HUNTER for his strong support of the MSP program, and for his leadership by including provisions in the pending Defense Authorization bill that would extend, expand and significantly improve that vital military program.

Mr. HUNTER’s work will preserve the ability of the United States through the MSP program to maintain a fleet of active, militarily useful, privately owned United States-flag vessels to meet national defense and other security requirements and to maintain a United States presence in international commercial shipping.

In order to encourage the participation of the most modern vessels in the MSP program, my amendment would allow existing vessels to be documented under United States flag, and also have an equal opportunity to compete for the prime contracts.

For example, in Houston, there are dozens of minority-owned businesses with expertise in all aspects of the oil industry. The minority-owned businesses can provide a range of oil-related services from refining, processing, storage, and also have an equal opportunity to compete for the prime contracts.

This amendment’s purpose is only to commission a study of feasibility of using small, minority, and women-owned businesses and to develop efficient outreach procedures to maximize our participation in the rebuilding efforts. Small, minority, and women-owned businesses are a valuable resource that should be fully utilized in the Iraq rebuilding efforts. This amendment to H.R. 1588, the Department of Defense Reauthorization Bill is an important step in that direction. I urge the Chamber to accept my amendment to H.R. 1588.

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

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

Mr. HUNTER. Mr. Chairman, I wish to assure the gentlewoman that we will work to see to it that small businesses participate robustly in rebuilding Iraq. Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank both gentlemen for their help and will conclude by asking my colleagues to support this amendment.

Mr. SKELTON. Mr. Chairman, reclaiming my time, let me urge the passage of the en bloc amendments and thank the chairman so very much for his leadership in his chair to the successful implementation of the aisle and making all of these happen. I think it is an excellent series of amendments.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time to reciprocate to my partner, the ranking member of the Committee on Armed Services, the gentleman from Missouri (Mr. SKELTON), and thank him for his great work on this bill, and I want to thank all the Members for their great work on this bill, and I want to thank all the Members for their great work on this bill. Mr. FARR. Mr. Chairman, I rise today in support of the rights of women around the world, including those of servicewomen who are stationed abroad. The Sanchez amendment is about restoring rights and healthcare access to our servicewomen abroad, and not about the ideological debate on abortion.

This Congress has professed tremendous leadership in advocating on behalf of those who have selflessly chosen to serve in the military. However, the health, safety, and rights of our women service members are a top priority. In no way should the healthcare options of any serviceman or woman be compromised. Unfortunately, the system currently in place makes servicewomen stationed abroad second-class citizens who are subject to different and inferior healthcare parameters than their male counterparts. In supporting our Armed Services we cannot allow the very rights and liberties that they are fighting for to be compromised by refusing to allow service-women to choose to have safe and timely medical procedures at military hospitals.

It is unjustified and dangerous if servicewomen would be forced to compromise her privacy and wait for space on a military transport, in order to obtain a time-sensitive procedure like an abortion. Our female soldiers should be cared for in a safe and timely manner by a military hospital, whose very purpose is to provide healthcare for serviceman and women. Moreover, this amendment clearly states that these abortions would be paid for by private funds, and that no doctor or staff would be forced to participate.

In defense of women’s reproductive freedoms, and our servicewomen stationed abroad, I support the Sanchez amendment and urge my colleagues to do the same.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time to urge the support of my amendment that would assist in our efforts to ensure that militarily useful United States flag commercial vessels crewed by American citizens are available for this Nation’s military and national security needs under the Maritime Security Program.

The MSP program provides the Department of Defense with a large fleet of U.S.-flag roll-on/roll-off, container and other militarily useful vessels for the transport of military vehicles, supplies and other materiel in support of U.S. military operations around the world. I particularly commend Chairman HUNTER for his strong support of the MSP program, and for his leadership by including provisions in the pending Defense Authorization bill that would extend, expand and significantly improve that vital military program.

Mr. HUNTER’s work will preserve the ability of the United States through the MSP program to maintain a fleet of active, militarily useful, privately owned United States-flag vessels to meet national defense and other security requirements and to maintain a United States presence in international commercial shipping.

In order to encourage the participation of the most modern vessels in the MSP program, my amendment would allow existing vessels to be documented under United States flag, and also have an equal opportunity to compete for the prime contracts.

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Mr. HUNTER’s work will preserve the ability of the United States through the MSP program to maintain a fleet of active, militarily useful, privately owned United States-flag vessels to meet national defense and other security requirements and to maintain a United States presence in international commercial shipping.

In order to encourage the participation of the most modern vessels in the MSP program, my amendment would allow existing vessels to be documented under United States flag, and also have an equal opportunity to compete for the prime contracts.
A key component of this plan is the demolition of the Tacony Warehouse, an abandoned 1988 BRAC site that is under the administrative responsibility of the United States Army. Congress included $5 million in the Fiscal Year 2001 Department of Defense Appropriations bill to demolish this building, yet the United States Army has taken no action to destroy the property.

My amendment expresses the Sense of the Congress that the Secretary of the Army should take swift action to finally demolish the Tacony Warehouse, which is imperative that the Tacony Warehouse be destroyed in order for the City of Philadelphia and the Tacony Community Development Corporation to move forward with their efforts to revitalize Northeast Philadelphia. I wish to thank Chairman Hunter and Ranking Member Skelton for their support of my amendment.

Mr. Chairman, this amendment is an important first step in ensuring that the Army moves forward in demolishing the Tacony Warehouse. The Army’s refusal required by Congress is simply an “unusual and compelling urgency,” and even if it is determined that it is “in the public interest.”

All of these would seem to apply to fighting the war on terrorism as effectively as possible, but the case simply has not been made that we need this bill. What is the problem? Are we not getting the complete material or services to fight the war on terrorism? What exactly is it that they have been unable to get? I haven’t heard that agencies are having any problems. The administration has not asked for these “flexibilities.” Maybe that is because existing law already has a great deal of flexibility. Waivers from almost all acquisition procedures are available to agencies for a number of reasons. Those include waivers for national security reasons, a threat of war, an unusual and compelling urgency, and even if it is determined that it is “in the public interest.”

The amendments en bloc were agreed to.

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

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 printed in House Report 108-122.

AMENDMENT NO. 4 OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer amendment No. 4 made in order under the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment No. 4 offered by Mr. Tom Davis of Virginia:

At the end of subtitle A of title XI (page 349, after line 10), insert the following new section (and redesignate subsequent sections accordingly):

SEC. 1111. HUMAN CAPITAL PERFORMANCE FUND

(a) In General.—Subpart D of part III of title 5, United States Code, is amended by inserting after chapter 53 the following:

"CHAPTER 54—HUMAN CAPITAL PERFORMANCE FUND"

"Sec. 5401. Purpose.
5402. Definitions.
5404. Human capital performance payments.
5405. Regular payments.
5406. Agency plan.
5407. Nature of payment.
5408. Performance criteria.
5409. Purpose."

"For the purpose of this chapter—
"(1) ‘agency’ means an Executive agency under section 105, but does not include the General Accounting Office;
"(2) ‘employee’ includes—
"(A) an individual paid under a statutory pay system defined in section 5302(1);
"(B) a prevailing rate employee, as defined in section 5342(a)(2); and
"(C) a category of employees included by the Office of Personnel Management following the review of an agency plan under section 5403(b)(3); but does not include—
"(i) an individual paid at an annual rate of basic pay for a level of the Executive Schedule, under subchapter II of chapter 53, or at a rate provided for one of those levels under another provision of law;
"(ii) a member of the Senior Executive Service paid under subchapter VIII of chapter 53, or an equivalent system;
"(iii) an administrative law judge paid under section 5372;
"(iv) a contract appeals board member paid under section 5372a;
"(v) an administrative appeals judge paid under section 5372b; and
"(vi) an individual in a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; and

"5402. Definitions

(a) There is hereby established the Human Capital Performance Fund, to be administered by the Office for the purpose of this chapter.

(b) An agency shall submit a plan as described in section 5408 to be eligible for consideration by the Office for an allocation under this section. The Office shall not allocate more than 7 percent of the amount to be allocated, an agency’s pro rata distribution.

(c) After the reduction for training required under section 5408, ninety percent of the remaining amount appropriated to the Fund may be allocated by the Office to the agencies. Of the amount to be allocated, an agency’s pro rata distribution may not exceed its pro rata share of Executive branch payroll.

(d) If the Office does not allocate an agency’s full pro rata share, the undistributed amount remaining from that share will become available for distribution to other agencies, as provided in subparagraph (C).

(e) An agency with an exceptionally high-proportion of trainees is eligible to receive an additional distribution in addition to its full pro rata distribution.

(f) Each agency is required to provide to the Office such payroll information as the Office specifies necessary to determine the Executive branch payroll.

"5404. Human capital performance payments

(a) Notwithstanding any other provision of law, the Office may authorize an
agency to provide human capital performance payments to individual employees based on exceptional performance contributing to the achievement of the agency mission.

(2) The number of employees in an agency receiving payments from the Fund, in any year, shall not be more than the number equal to 15 percent of the agency’s average total civilian full- and part-time permanent employment for the previous fiscal year.

(b)(1) A human capital performance payment to an individual employee from the Fund, in any year, shall not exceed 10 percent of the employee’s rate of basic pay.

(b)(2) The aggregate of an employee’s rate of basic pay, adjusted by any locality-based comparability payments, and human capital performance pay, as defined by regulation, may not exceed the rate of basic pay for Executive Level IV in any year.

(3) Any human capital performance payment provided to an employee from the Fund is in addition to any annual pay adjustment (under section 5303 or any similar provision of law) and any locality-based comparability payments.

(c) No monies from the Human Capital Performance Fund may be used to pay for a new position, for other performance-related payments that are not moneys from the Office, for recruitment or retention incentives paid under sections 5753 and 5754.

(d)(1) An agency may finance initial human capital performance payments using monies from the Human Capital Performance Fund, as available.

(2) In subsequent years, continuation of payments may be provided if, for any amounts below or in excess of the agency’s prorata share.

§5405. Regulations

The Office shall issue such regulations as it determines to be necessary for the administration of this chapter, including the administration of the Fund. The Office’s regulations shall include criteria governing—

(1) an agency plan under section 5406;

(2) the allocation of monies from the Fund to agencies;

(3) the nature, extent, duration, and adjustment of, and approval processes for, payments to individual employees under this chapter;

(4) the relationship to this chapter of agency performance management systems;

(5) training of supervisors, managers, and other individuals involved in the process of making distinctions; and

(6) the circumstances under which funds may be allocated by the Office to an agency in amounts below or in excess of the agency’s prorata share.

§5406. Agency plan

(a) To be eligible for consideration by the Office for an allocation under this section, an agency shall—

(1) develop a plan that incorporates the following elements:

(A) adherence to merit principles set forth in section 230;

(B) fair, credible, and transparent employee performance appraisal system;

(C) a link between the pay-for-performance system, the employee performance appraisal system, and the agency’s strategic plan;

(D) a means for ensuring employee involvement in the design and implementation of the appraisal system;

(E) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system;

(F) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting time-tables 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 agencies to finance the design, implementation, and administration of the pay-for-performance system;

(2) upon approval, receive an allocation of funding from the Office;

(3) make payments to individual employees in accordance with the agency’s approved plan; and

(4) provide such information to the Office regarding payments made and use of funds received under this section as the Office may specify.

(b) The Office, in consultation with the Chief Human Capital Officers Council, shall review and approve an agency’s plan before the agency is eligible to receive an allocation of funding from the Office.

(c) The Chief Human Capital Officers Council shall include in its annual report to Congress, the annual report required under section 1303(d) of the Homeland Security Act of 2002 an evaluation of the formulation and implementation of agency performance management systems.

§5407. Nature of payment

Any payment to an employee under this section shall be based on an employee’s basic pay for the purposes of subchapter III of chapter 83, and chapters 84 and 87, and for such other purposes (other than chapter 75) as the Office shall determine by regulation.

§5408. Appropriations

There is authorized to be appropriated $500,000,000 for fiscal year 2004, and, for each subsequent fiscal year, such sums as may be necessary to carry out the provisions of this chapter.

It is ironic, Mr. Chairman, that this amendment was such a common-sense approach, for restoring the funding that was removed by the Committee on Government Reform during its consideration of this legislation.

The incentive payments paid to employees from this performance fund would be, number of monies from the Human Capital Performance Fund be paid to an employee’s current salary and general schedule grade; second, continuing rather than just a one-time bonus; and, third, part of a base pay for purposes of retirement and other benefits.

This amendment would authorize $500 million for the pay for fiscal year 2004, in which 90 percent would be available to the agencies. The other 10 percent would be used to train Federal managers on how to effectively manage and rate employee performance.

To qualify for funds from this fund agencies must submit a plan demonstrating its performance management system supports its strategic goals and performance objectives and is able to make a meaningful distinction in individual performance.

In addition, the Committee on Government Reform included additional requirements that agencies must certify that their agency plans contain certain elements that are essential to a good performance management system, such as adherence to merit principles, transparency, employee feedback, and sufficient training.

I urge adoption of this amendment.

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

The CHAIRMAN pro tempore. Mr. Chairman, does any Member seek time in opposition?

Mr. WAXMAN. Mr. Chairman, I seek time in opposition.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

It is ironic, Mr. Chairman, that this amendment is made in order. It applies across the board to civil servants, but there is no DOD comp, and what the Republican leadership won’t allow to be in order is a debate about the dramatic radical changes on civil service and procurement issues.

First, with regard to the amendment before us, I have concerns about this Human Capital Performance Fund because I am concerned that the fund will be used as a ruse to slash annual pay raises for Federal employees.

Mr. Chairman, three of my colleagues thought we had an opportunity to come to the floor and offer a proposal, which was such a common-sense approach, for restoring the fundamental rights of DOD employees.
have reaffirmed the importance of vet-

ers' preferences and nondiscrimina-

tion based on political affiliation.

These are the same fundamental rights
enjoyed by other Federal employees and,
indeed, by employees all around the
country. The underlying premise that
takes those rights away. They would
not even allow the chance for these au-
thors to propose this.

Now, let me inform my colleagues
that that committee has found that
the Cooper-Van Hollen-Davis amend-
ment would be the motion to
recommit, so Members will still have
to vote on it. But the Republican lead-
ership will not allow us to debate the
Cooper amendment on the floor be-
cause they cannot defend their own
bill. I yield to the gentleman from Vir-
ginia for the few seconds that he
deal with one of the most sweeping
civil service changes in history.

What makes this process even more
galling is that we are dealing with the
rights of 700,000 loyal and hard-working
Federal employees who are the same
employees who saw terrorists crash an
airplane into their headquarters at the
Pentagon, and they are the same em-
ployees who made enormous sacrifices
to support the military efforts in Iraq.

We have our basic priorities all
wrong. At the same time that the
House today is going to reward billion-
aires with unnecessary tax breaks, the
Republican majority is passing legisla-
tion to take away health benefits from
veterans and strip dedicated Defense
Department employees of their basic
rights.

Of course, this is only the latest as-
sault on Federal employees by the
Bush administration. Federal jobs have
been turned into the private contract
businesses of the new economy, which
are unsupervised and unable to do their
job as effectively or efficiently as it
would be public employees, and finan-
cial bonuses have been given to political
appointees instead of career em-
ployees. If we are truly concerned
about a strong national defense, we
ought to open debate and make sure
that we have a motivated workforce.

I was also unable to offer an amend-
ment requiring sole source contracts
over $1 million to be covered by laws
intended to prevent waste, fraud and
abuse. Who is in favor of waste, fraud
and abuse? Well, we would have given
the chance for Members to make sure
that that sort of thing would not hap-
pen.

The approach of the leadership on the
Republican side is unprecedented, and I
want to use this time to protest it.

Mr. Chairman, I yield 1 minute to the
gentleman from Maryland (Mr. HOYER)
to further talk about what is hap-

pening in this DOD bill.

Mr. HOYER. Mr. Chairman, I thank
the gentleman for yielding me this
time, and I wish to ask the gentleman
from Virginia if he is for the budget
provision in the Republican budget for
41 percent parity for civil service em-
ployees?

Mr. TOM DAVIS of Virginia. Mr. Chair-
man, will the gentleman yield? 1745

Mr. HOYER. I yield to the gentleman
from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chair-
man, not only are we for it, there is
language in this underlying legisla-
tion that calls for pay parity to the
maximum extent practicable.

Mr. HOYER. I understand the max-
imum extent practical. Is the gen-
tleman for the 41 percent parity for
civil service employees?

Mr. TOM DAVIS of Virginia. Abso-
lutely.

Mr. HOYER. Reclaiming my time,
when this proposal was originally
made, I said if it is a proposal in lieu of
ensuring proper pay for Federal em-
ployees, then I would oppose it, and I
would oppose it vigorously. I do not
think the administration is yet for par-
ity. They did not offer parity. This
Congress has repeatedly said they are
for parity. It isn't the President's party,
Mr. Chairman. The advisory committee
says that civilians are further behind comparable
private sector jobs than the military. In light
of that, certainly we must adopt the
premise that 4.1 percent pay raise will
be adopted; but I say to my friends that
if this is solely for the purposes of sup-
plementation, then I think that it is
not objectionable. But my concern is
that they fund this, but not the pay
raise.

Mr. TOM DAVIS of Virginia. Mr.
Chairman, I yield 1 minute to the
gentleman from Pennsylvania (Mr.
MURPHY).

Mr. MURPHY. Mr. Chairman, I thank
the gentleman from Virginia for allow-
ing me to speak on this important
amendment that will motivate Federal
workers to perform at their true poten-
tial.

In my opinion, the National Commis-
sion on the Public Service, chaired by Paul
Volcker, issued a report stating the
current civil service system “makes
few distinctions between hard-working
high-achievers and indifferent non-
achievers.” A recent OPM study found the
current performance evaluation for the
Senior Executive Service “is merely a
rubber stamp and not a measure of, nor
an incentive to, performance.” And a
recent survey of 13,000 Federal em-
ployees found the average estimate of the
number of poor performers in their midst was about 25
percent. These results are typical of
the conclusions reached by other stud-
ies conducted to evaluate the status of the
Federal civil service. The true value of the individual Federal worker
is lost beneath the layers of rigidity in
a decades-old architecture of pay and
career advancement.

We must not underestimate the value
of rewarding our hard-working Federal
employees. The amendment offered by
the gentleman from Virginia (Mr. Tom
DAVIS) which has the strong support of
the President represents a major step
in the implementation of adequately acknow-
ledging these contributions. I urge
Members to support this amendment.

Mr. TOM DAVIS of Virginia. Mr.
Chairman, I yield 1 minute to the gen-
tlewoman from Tennessee (Mrs.
BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I
thank the gentleman for the oppor-
tunity to speak on this amendment.

Under the current civil service sys-
tem, agencies are limited in the extent
to which they can reward employees
for their performance, in the way they
can recognize excellence. In the
current system, employees at lower
levels of their employment grade
can receive quality step increases
limited to about 3 percent of their annual
salary, and they can only receive one a
year regardless of how well they per-
form in their job. The Human Capital
Performance Fund would allow agen-
cies to reward their top-performing
employees with a pay raise, a pay raise
that they deserve, that they have
worked for and earned, but would never
receive under the current guidelines.

It is important to clarify, however,
that the funds in the Human Capital
Performance Fund are in addition to
across-the-board pay raises and peri-
odic within-grade step increases that
Federal workers already receive. This
is not an attempt to gouge Federal em-
ployee pay raises, and this is not an at-
tempt to circumvent the existing sys-
tem. It is an attempt to integrate perfor-
mance incentives into a civil service
system that was developed many de-
cades ago. I urge support for this
amendment.

Mr. WAXMAN. Mr. Chairman, I yield
myself such time as I may consume.

I have some misgivings about this
amendment, but the real point that I
want to make is that we should have
had an opportunity to debate radical,
swiping civil service changes for the
DOD. It was wrong not to have that
chance to offer an amendment to do
that.

In the motion to recommit, an em-
ployee bill of rights will be offered
which will protect veterans’ prefer-
ences, protect against discrimination
based upon political opinion or affili-
ation, right to overtime pay, due pro-
cess rights, and appeal rights. I hope
Members will be willing to vote for
that.

Mr. TOM DAVIS of Virginia. Mr.
Chairman, I yield myself the balance of
my time.
I thank the gentleman from Maryland (Mr. HOYER) for some of the clarifications he brought forth. It is very clear that underlying pay parity is something I feel strongly about. That needs to be in the record.

In addition to the bonus builds for calculations for retirement, something that current bonuses do not. Pay parity has been an issue not just with this administration but with previous administrations, and we have joined together in a bipartisan way to overturn those and will be fighting that battle again this year.

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

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Maryland.

Mr. HOYER. I think the gentleman is correct, it has been a bipartisan problem. We have been together. I look forward to succeeding this year, as we have in years past.

Mr. TOM DAVIS of Virginia. Mr. Chairman, hopefully this bonus pool will reward hard-working Federal employees who exhibit great merit. I urge adoption of the amendment.

The CHAIRMAN pro tempore (Mr. LAHOOD). The amendment was agreed to.

The CHAIRMAN pro tempore. Pursuant to House Resolution 247, the gentleman from California (Mr. DREIER) and a Member opposed each will control 10 minutes.

Mr. DREIER. Mr. Chairman, I ask unanimous consent to yield 5 minutes of my time to my friend from California (Ms. LOGGREN), the coauthor of the amendment, and that she may control that time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, we are making an attempt to move into the 21st century; and quite frankly, we have found from the war on terrorism and the war with Iraq that one of the most phenomenal developments has been the technological advances that have been made in dealing with our national security concerns.

One of the things that we found during that process is the fact that we have a very outdated structure known as millions of theoretical operations per second, MTOPS, which has not enhanced our ability and has undermined our ability to compete globally. We believe very strongly that it is important for us to have in place a structure which would in fact allow us to deal with the potential transfer of sensitive computer technology to our adversaries.

This amendment which I have offered along with the gentlewoman from California (Ms. LOGGREN) will allow for the administration to have 120 days during which time they would come up with any regulations that would allow us to control 10 minutes.

Mr. Chairman, the balance of my time.

Mr. HUNTER. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentleman from California (Mr. HUNTER) is recognized for 10 minutes.

Mr. HUNTER. Mr. Chairman, we have a system today which makes a great deal of sense. It says if we sell a supercomputer, and the President has a right to define what a supercomputer is, he can raise the number of millions of theoretical operations per second that define a supercomputer, but once he makes that determination, then if someone sells to whom is as a foreign country, and that is a country that we may have great problems with, and I ask the staff to bring down a poster that has those countries. I am talking about countries like China, India, Djibouti, other countries like that; and if you sell a supercomputer to those countries, you have to do something very simple, you just give notice.

You just send a notice to the Department of Commerce; and under our law that we worked out very studiously, the Department of Commerce gives within 24 hours that notice to the Secretary of Defense and the Secretary of State, and they are able to scrub their list and say wait a minute, have we got one for you who is an end user here?

Have we got a company that wants to kill Americans? Do we have somebody who is going to aid terrorists?

If that is not the case and we come up with a benign end user, okay, go ahead and sell it. All we have to do is give notice 10 days before the transfer is made. And if the bureaucracy fails to act in 10 days, the trade under our present law is authorized.

The gentleman from California (Mr. DREIER) says some notice requirement may be built in in the future; but when we strike title B, it takes away the notice requirement.

The other thing that it takes away, it takes away what is known as end-use verification. That means when we sell a supercomputer to Communist China, and they say we are not using this for our nuclear weapons development, we are going to use this for our weather laboratories, that means we have a right to go over and check in that weather laboratory and make sure that they have not transferred it over to nuclear weapons development. The DREIER amendment strikes this, and we no longer can check on how this equipment is being used.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Washington.

The gentleman from California (Mr. Cox) and I led the investigation into the transfer of technology to China, and one of the
things that we found in our investigation was the great difficulty of verifying what the end use in fact was. We have to look at the possibility that they could use this to upgrade their nuclear weapons capability, I think it is important for Members to know that the administration supports the amendment. We received a letter from Secretary Don Evans indicating that the administration supports the amendment and also a letter from Condoleezza Rice indicating that “the President has long-supported the repeal of this requirement.” She and the President support this amendment.

Clearly, President Bush would not support an amendment that would be adverse to the national security interests of the United States, and the truth is we are not repealing computer export controls. What we are doing with this amendment is replacing the control system with something that is flexible and that works better.

I have here in my hand a Sony PlayStation 2. It is a children’s toy. I bought one for my son for Christmas on eBay and a game, the Madden game. This children’s toy was controlled under the MTOP export control standard at one time, and we could not change it fast enough so that the toys could not be exported. That is a preposterous result. Of course we have altered the MTOP since then, but the reason the President wants this change is so the President and the administration can move and protect this country in a flexible way, and the current law does not allow that.

I hope that Members listen to Condoleezza Rice and listen to the technology sector that knows about computers. Certainly this has great economic value in this time when the tech sector is in the dumps, but we would never support it if it was not also consistent with national security, which clearly it is.

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

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Mississippi (Mr. Taylor).

Mr. Taylor of Mississippi. Mr. Chairman, I rise in strong opposition to this amendment. In 1993, a group of Congressmen wrote then-Secretary of State Warren Christopher asking permission for an outfit called Hughes-Loral to launch satellites in China allegedly for telecommunications purposes.

During this debate thus far is that those who oppose this amendment have said virtually nothing about the amendment itself. We absolutely completely agree that this system is outdated and that we need a new framework. The risk before us right now is repealing the old system without having the new system fully in place. The

The risk before us right now is repealing the old system without having the new system fully in place. The

Dreier amendment, I believe, allows 4 months to put the new system in place, specific consultation with the appropriate committees, those who are concerned about this on all sides of it; and it comes with a pledge from the Secretary of Commerce that says repeal of existing regulation on exports of high-performance computers until appropriate regulations are in place is not happen. That ought to give us satisfaction. The question is, can the administration get it done in 4 months? I believe so. Are we in the process? I believe so. Should we stand pat under the old system that does not work just because we are scared to go forward with the technology in situations today? The answer is no. I believe the Dreier amendment should be considered and supported.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Rohrabacher).

Mr. ROHRABACHER. Mr. Chairman, I rise in strong opposition to the Dreier amendment. I, too, signed that letter in 1993, and I have regretted it ever since. Like the distinguished friend, the chairman of California (Mr. Dreier) who has not seemed to have learned his lessons on this, the bottom line is this is exactly the same issue. I signed that letter in 1993 because I was promised that there would be no transfer of technology for military use that could be in any way threatening to the United States. And you know what happened? Yes, because the satellite industry wanted to sell satellites to Communist China and the end result was our missile technology was transferred to Communist China and as the gentleman from Mississippi (Mr. Goss), the very distinguished chairman of the Permanent Select Committee on Intelligence.

Mr. Goss asked and was given permission to revise and extend his remarks.

Mr. Goss. Mr. Chairman, I thank my distinguished friend, the chairman of the Committee on Rules, for yielding me this time. This is a subject that we have discussed many times. There is no question about one thing and that is that MTOPS is no longer a viable template to use as the decision-driver to control exports of high-performance computers. We, I think, all agree on that. That letter has nothing to do with what we are looking at here today.

Mr. TAYLOR of Mississippi, it is the exact same argument.

Mr. DREIER. Mr. Chairman, I am happy to yield 1½ minutes to the gentleman from Florida (Mr. Goss), the very distinguished chairman of the Permanent Select Committee on Intelligence.

Mr. Goss asked and was given permission to revise and extend his remarks.

Mr. Goss. Mr. Chairman, I thank my distinguished friend, the chairman of the Committee on Rules, for yielding me this time. This is a subject that we have discussed many times. There is no question about one thing and that is that MTOPS is no longer a viable template to use as the decision-driver to control exports of high-performance computers. We, I think, all agree on that. That letter has nothing to do with what we are looking at here today.

They affect a great many people in a great many ways. But we understand that what we are dealing with is no longer viable. What we need and what the administration is seeking, I am told, is new computer control methodology that will deal with technology as it is today, in the world as it is today that provides for our national security and provides for economic opportunity. That is something we need to do.

The risk before us right now is repealing the old system without having the new system fully in place. The
Mr. Chairman, I yield 1 minute to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, there is a bit of acrimony here, and I think we ought to reduce it. People have different views and I regret that my good friend from Washington says that we are not wanting to take up the question of the MTOPS and that that is an inadequate measure. I have here before me the GAO report on "Excess Capacities: More Thorough Analysis Needed to Justify Changes in High Performance Computer Controls," in which it states quite specifically that the inadequacies of the report, that is to say, the President's report on this issue is compounded by the continued use of the flawed measured MTOPS. That is not what we are talking about. We are talking about whether or not this amendment would get done what the advocates say it will do. It will not. What it does is say give the President the opportunity to work with a system. The reason this should be defeated is that those who wish to have a different kind of measure, those who wish to be able to sell these computers or its components in some other form need to come up with a proposal and we do; and have it vetted through the Committee on Armed Services and other relevant committees, and then we will take it up and vote on it. This should be defeated because it is not ready to be passed.

Mr. DREIER. Mr. Chairman, I am very happy to yield 1½ minutes to the gentleman from California (Mr. Cox), the distinguished chairman of the Select Committee on Homeland Security. Mr. COX. Mr. Chairman, I thank the gentleman for yielding me this time. I thank the chairman, as well, for working with me on the language of this amendment which I became concerned with first as chairman of a different select committee and national security and military commercial concerns with the People's Republic of China. As a result of extensive expert testimony during hearings before that committee, I became convinced that the MTOPS standard is not an acceptable metric for the purposes that we are seeking to achieve with our export control regime, and I support modernizing and updating the approach that we are taking to high-end computer export controls. I have suggested, and there is included in this amendment, a 120-day period during which these regulations can be implemented by the Bush administration, and I appreciate the gentleman from California (Mr. DREIER) changing the text of the amendment so that the repeal of the current regime is not immediately effective.

I am concerned that while we are repealing the provisions concerning MTOPS, we are also repealing the notification requirements in all events. But I think it is important that we modernize our regime in this respect, and I support the amendment. I will vote in support of it.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. SAXTON), chairman of the Subcommittee on Terrorism, Unconventional Threats and Capabilities.

Mr. SAXTON asked and was given permission to revise and extend his remarks.

Mr. SAXTON. Mr. Chairman, as the gentleman mentioned at the beginning of this session, the Committee on Armed Services set up a new subcommittee which I have the honor of chairing. One of our responsibilities on the Subcommittee on Terrorism, Unconventional Threats and Capabilities is to review matters just such as this one that would have to do with the proliferation of weapons of a variety of kinds and the materials that could be used to construct them. This very amendment offered by the gentleman from California (Mr. DREIER) is just such a subject that should be reviewed by this subcommittee. That is what we are trying to do, and here we are on the floor considering this amendment without even having had the opportunity to consider it by our subcommittee.

We are for international trade. We are for export of computer systems to the right people. However, this is a wrongheaded, in my opinion, at least at this point without having had a chance to study it before today, amendment which goes, in my opinion, in the wrong direction as has been stated by the developing coalition, including the gentleman from Hawaii (Mr. ABERCROMBIE), the gentleman from Washington (Mr. DICKS), and the gentleman from Mississippi (Mr. TAYLOR). Mr. LOFGREN. Mr. Chairman, I yield myself the balance of my time.

I thought it was quite wonderful that the chairman of the Permanent Select Committee on Intelligence supported this amendment. I would like to note for the record that the ranking member, the gentlewoman from California (Ms. HARMAN), has also announced her support for the amendment. I think there is a reason for that. We have been trying to resolve this for many, many years, and because of a variety of snags, we were unable to do it, but we are paying an economic price. The Silicon Valley unemployment rate today is 8.5 percent. We have lost 239,000 jobs since January of 2003, and we need to revitalize the economy. This is one way to do that, that is safe. It is supported by the Bush administration, it is supported by Condoleezza Rice, it is supported by the Department of Defense, it is supported by the GAO study; and I think it is time to act.

Mr. HUNTER. Mr. Chairman, I am delighted to cosponsor this amendment with my colleague, the gentleman from California (Mr. DREIER). It has overwhelming support.
on both sides of the aisle as well as within the administration. I think it is quite worthy of the support of Members on both sides. It does not jeopardize our national security in any way. I hope that Members will listen to the debate and vote 'aye.'

Mr. DREIER. Mr. Chairman, I yield myself the balance of my time. As we have worked in structuring this rule, I want to congratulate the gentleman from California (Mr. HUNTER) for all of the effort he has put into this great piece of legislation. I do not step forward to challenge him on an issue lightly. This is a very serious matter. I will take a back seat to no one when it comes to the national security of the United States of America.

The gentleman from California and I came together with Ronald Reagan in 1980, and I would not be supportive of any legislation which repealed regulations to ensure that the transfer of sensitive technology would go into the hands of our adversaries. I have great confidence in Condoleezza Rice. I have great confidence in the leadership of this President. And I believe that the correspondence that we have had, having worked closely on this amendment with the administration, having worked closely with the chairman of the Permanent Select Committee on Intelligence, having worked closely with the chairman of the Select Committee on Homeland Security, and Democrats and Republicans on both sides of the aisle, we have that opportunity to do it, guarantees that we will address our national security concerns.

Pass this amendment. Repeal this outdated moment. Please vote in favor of the amendment.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. DREIER. Mr. Chairman, I yield myself the balance of my time. My amendment guts a very important aspect of national security, and that aspect is knowledge. The idea that we want to take away notice when a supercomputer is sold to one of these third-tier countries, and once again I would ask the floor to put up that list of so-called third-tier countries, including Communist China and a number of others which may at some point be our adversary, the idea that we want to take away our notice so that we do not know if we are transferring a supercomputer to the Osama bin Laden Construction Corporation, we want to divest ourselves of that knowledge, that makes no sense.

We have a system in place which is very practical. It is a 10-day system. You simply tell, by notice, the Department of Commerce if you are going to sell a supercomputer. The President decides what a supercomputer consists of; and if you are going to sell a supercomputer to China or Pakistan or Vietnam or Afghanistan, you do not get a 10-day notice. He sends a copy within 24 hours to the Secretary of Defense, the Secretary of State. If nobody objects, you make the sale. If 10 days expires, you go ahead and transfer this supercomputer.

The other thing we have is in-use verification. We want to make sure when a supercomputer goes to China it is being used by their weather bureau, for example, not by their nuclear facilities. The only way one can tell is by sending a team and saying is that supercomputer where they said it would be? That is called in-use verification. The gentleman from California (Mr. DREIER) amendment strikes in-use verification.

The gentleman from Illinois (Mr. HYDE) joins me in opposing this amendment very strongly. I would ask the Members to look at the handout that the gentleman from Illinois (Mr. Hyde) and I put out together.

Please vote this amendment down and please retain notice.

Ms. ESHOO. Mr. Chairman, I rise in strong support of the amendment offered by my colleagues Chairman DREIER and Representative LOFGREN.

The amendment allows the Administration to reform the MTOP standard to control computer exports, a standard implemented during the Cold War to protect high-performance computers from falling into the hands of rogue nations.

Why should this standard be reformed? Quite simply, the MTOP standard has failed to keep pace with technological innovation and has become a useless tool that serves no other purpose other than to place American companies at a severe competitive disadvantage with their foreign competitors.

Personal computers available today perform at more than 25 times the speed of the supercomputers built just a decade ago. Yet these same PCs are treated like weapons under the MTOP standard.

Clearly, reform of our export system is necessary. This amendment protects our national security while at the same time allowing American high technology companies to compete on a level playing field with their foreign competitors.

Importantly, it is not only the technology and computer industries who are calling for this reform.

Both the Defense Department and the GAO agree that the MTOPS export control system is "ineffective" and "irrelevant". We must reform this standard and I urge my colleagues to support this amendment.

Ms. HARMAN. Mr. Chairman, I rise in support of the Dreiier-Lofgren amendment, which would replace the MTOPS metric with an updated metric. This amendment would set standards that are more effective at protecting national security and less injurious to U.S. commercial interests.

When Congress imposed the MTOPS requirements as part of the National Defense Authorization Act back in 1998, we made a terrible mistake by mandating a metric that was poorly matched to the threat it was designed to address. At the same time, hand-capped U.S. high tech companies trying to break into the world's fastest growing markets—and gave an artificial advantage to all the companies abroad who would like to move the leading edge in high-powered computing to other nations.

The MTOPS metric has been ineffective at controlling the diffusion of technology primarily because computing power has advanced at such a furious pace over the past decade and a half. In 1991 when the MTOPS metric was first devised, the fastest supercomputer in the world was the Cray C90, which was the size of two refrigerators and cost about $10 million. Do you realize that today a Dell Pentium 4 laptop computer, which costs about $1,000, has more computing power than the Cray C90?

What's more, "clustering" technology allows a foreign government whose technological capabilities we are trying to limit to buy mass market PCs off the shelves of Radio Shack or Wal-Mart and achieve the same computing power by harnessing them together.

The most important point I want to make today is that this amendment repealing the MTOPS mandate will not injure national security. To that end, I want to cite just a few sources.

A February 2001 report by the Center for Strategic and International Studies (CSIS) concluded that the MTOPS system is "ineffective, given the global diffusion of information technology and the rapid increases in performance and "irrelevant" because it "cannot accurately measure performance of current microprocessors or alternative sources of supercomputing like clustering."

A January 2001 study by DOD's Office of Science and Technology similarly concluded that "MTOPS has lost its effectiveness due to rapid technology advances."

President George W. Bush commented in March 2001 that "With computing power doubling every 18 months, these controls have the shelf life of sliced bread. They don't work."

Mr. Chairman, passing this amendment will give the President the power to devise a better system to protect national security. Let's do the right thing and approve the Dreiier-Lofgren amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. DREIER).

The question was taken; and the noes appeared to have it.

Mr. DREIER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 8 of rule XX, further proceedings on the amendment offered by the gentleman from California (Mr. DREIER) will be postponed.

The CHAIRMAN pro tempore. The Committee will rise informally.

The SPEAKER pro tempore (Mr. LAHOOD) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.