

controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC-173. A communication from the Attorney General, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC-174. A communication from the Secretary of Education, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC-175. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC-176. A communication from the Chairman of the National Endowment For the Arts, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC-177. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC-178. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC-179. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC-180. A communication from the President of the James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Governmental Affairs.

EC-181. A communication from the Secretary of Education, transmitting, pursuant to law, the report concerning surplus Federal real property; to the Committee on Governmental Affairs.

EC-182. A communication from the Board of Governors of the U.S. Postal Service, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. Res. 65. An original resolution authorizing expenditures by the Committee on Armed Services.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LOTT:

S. 252. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

S. 253. A bill to repeal certain prohibitions against political recommendations relating

to Federal employment, to reenact certain provisions relating to recommendations by Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

S. 254. A bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II; to the Committee on Veterans Affairs.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 255. A bill to require the Secretary of the Army to carry out such activities as are necessary to stabilize the bluffs along the Mississippi River in the vicinity of Natchez, Mississippi, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOLE (for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, and Mr. SIMPSON):

S. 256. A bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes; to the Committee on Armed Services.

By Mr. DOLE (for himself, Mr. INOUE, Mr. THURMOND, Mr. WARNER, Mr. MCCAIN, and Mr. CAMPBELL):

S. 257. A bill to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 65. An original resolution authorizing expenditures by the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. PRESSLER (for Mr. GORTON (for himself, Mr. LIEBERMAN, Mr. GRAMM, and Mr. BYRD)):

S. Res. 66. A resolution to prevent the adoption of certain national history standards; considered and agreed to.

By Mr. PRESSLER (for Mrs. BOXER (for herself, Mrs. MURRAY, Mr. FEINGOLD, Mr. KENNEDY, Mr. CAMPBELL, Mr. SIMON, Mr. LAUTENBERG, Mr. DODD, Mr. BAUCUS, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. PELL, Mr. INOUE, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. REID, Mr. WELLSTONE, Mr. ROBB, Mr. KOHL, Mr. BRYAN, and Mr. KERRY)):

S. Res. 67. A resolution relating to violence at clinics; considered and agreed to.

By Mr. PRESSLER (for Mr. BRADLEY (for himself, Mr. CHAFEE, Mr. DORGAN, Mr. SIMPSON, Mr. ROBB, Mr. DOLE, Mr. NICKLES, Mr. LAUTENBERG, Mr. KEMPTHORNE, and Mr. WELLSTONE)):

S. Res. 68. A resolution relating to impact on local governments; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LOTT:

S. 252. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

THE OLDER AMERICANS' FREEDOM TO WORK ACT

Mr. LOTT. Mr. President, today I am introducing the Older Americans Freedom to Work Act of 1995 to eliminate the Social Security earnings test for individuals who have attained retirement age.

As the Social Security Act is designed, the Government seems to give little thought to older Americans' ability to make an important contribution to our work force. Senior citizens are subject to taxes such as the Federal Contributions Act [FICA], even in situations where they are receiving Social Security benefits. They are also subject to various Federal, State, and local taxes.

This brings me to the biggest outrage: the Social Security retirement earnings limit. Presently, this limit reduces benefits to persons between ages 65 and 69 who earn more than \$11,280 yearly. These reductions amount to \$1 in reduced benefits for every \$3 in earnings above the aforementioned limit—\$1 for \$3 withholding rate.

The earnings test is very unfair, but it also poses a serious threat to the labor work force. Demographers tell us that between the years 2000 and 2010 the baby boom generation will be in their retirement years. With fewer babies being born to replace them, this Nation is looking at a severe labor shortage. The skills and expertise of older workers is desperately needed.

An earnings limit for Social Security beneficiaries is an ill conceived idea and an administrative nightmare for the Social Security Administration [SSA]. SSA spends a great deal of money and devotes a full 8 percent of its employees to police the income levels of retirees. For beneficiaries, the income limit is a frustrating experience of estimating and reporting income levels to SSA.

In the 1930's, when the earned income limit was devised, encouraging the elderly to leave the workplace was seen as a positive act, designed to increase job opportunities for younger workers. Today, with our shrinking labor force, such a policy is absurd. We need the skills, wisdom, and experience of our older workers, and my proposal will encourage them to remain in the labor force.

In the 102d Congress, the Senate adopted an amendment to the older Americans reauthorization amendments to repeal the earnings test. While it was dropped from final passage, this legislation has perennial bipartisan interest and support.

It is a pleasure to again sponsor legislation in the Senate to abolish the onerous retirement earnings test. This begins the process of providing employment opportunities for older Americans without punishing them for their efforts. It is my understanding that the President supports lifting the earnings test for retirees, and I urge my colleagues to join me in supporting this

vitaly important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 252

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Americans' Freedom to Work Act of 1995".

#### SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(3) in subsection (f)(3), by striking "33½ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

#### SEC. 3. CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act (42 U.S.C. 403(f)(8)(B)) is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act (42 U.S.C. (f)(8)(D)) is repealed.

#### SEC. 4. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower,

or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of such Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

#### SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply only with respect to taxable years ending after December 31, 1995.

By Mr. LOTT:

S. 253. A bill to repeal certain prohibitions against political recommendations relating to Federal employment, to reenact certain provisions relating to recommendations by Member of Congress, and for other purpose; to the Committee on Governmental Affairs.

#### POLITICAL RECOMMENDATIONS LEGISLATION

Mr. LOTT. Mr. President, today, I am introducing legislation to allow Member of Congress to once again make political recommendations on behalf of constituents who have applied for Federal civil service employment. We have all been asked or wished to support constituents and friends who seek Federal positions. My bill would simply restore the basic right to make recommendations that Members held previously and would repeal this unnecessary prohibition.

The Hatch Act reform bill passed during the 103d Congress, but it included an onerous amendment that keeps Senators and Representatives from making suggestions. This provision went into effect in February 1994 and has probably caused difficulties for virtually every Member as constituents often ask us for recommendations when they have applied for Federal jobs.

Contacting a Federal agency in the interest of a citizen is the most basic of constituent services. My bill would restore us the ability to recommend those constituents who we feel will do an outstanding job with the Federal civil service. The bureaucracy needs applicants from outside the beltway to effect a change in how the U.S. Government works today. Exceptional candidates recommended by Senators and Representatives can help make these changes.

I urge my colleagues to join me in supporting this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 253

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

#### SECTION 1. PROHIBITIONS AGAINST POLITICAL RECOMMENDATIONS RELATING TO FEDERAL EMPLOYMENT.

(a) IN GENERAL.—Section 3303 of title 5, United States Code, is amended to read as follows:

##### "§ 3303. Competitive service; recommendations of Senators or Representatives

"An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3303 to read as follows:

"3303. Competitive service; recommendations of Senators or Representatives."

(2) Section 2302(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

"(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

"(B) an evaluation of the character, loyalty, or suitability of such individual;".

(c) EFFECTIVE DATE.—This Act shall take effect 30 days after the date of the enactment of this Act.

By Mr. LOTT:

S. 254. A bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II; to the Committee on Veterans' Affairs.

#### THE MERCHANT MARINERS FAIRNESS ACT

Mr. LOTT. Mr. President, today, it is my pleasure to reintroduce the Merchant Mariners Fairness Act.

My bill would grant veterans status to American merchant mariners who have been denied this status as well as veterans benefits. Similar legislation passed the House last year and related provisions were included in the Coast Guard authorization bill; however, these provisions were not included in the final conference report of that bill.

In 1988, the Secretary of the Air Force decided, for the purposes of granting veterans benefits to merchant seamen, that the cut-off date for service would be August, 15, 1945, V-J Day, rather than December 31, 1946, when hostilities were declared officially ended. My bill would correct the 1988 decision and extend veterans benefits to those merchant mariners who served from August 15, 1945 to December 31, 1946. It would extend eligibility for veterans burial benefits, funeral benefits, and related benefits for certain members of the U.S. merchant marine during World War II.

I urge my colleagues to join me in supporting this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 254

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

**SECTION 1. MERCHANT MARINER BENEFITS.**

(a) Part G of subtitle II, title 46, United States Code, is amended by adding at the end of the following new chapter:

**"CHAPTER 112—MERCHANT MARINER BENEFITS**

**"Sec.**

**"11201. Qualified service.**

**"11202. Documentation of qualified service.**

**"11203. Eligibility for certain veterans' benefits.**

**"11204. Processing fees.**

**"§ 11201. Qualified service**

"For purposes of this chapter, a person engaged in qualified service if, between August 16, 1945, and December 31, 1946, the person—

"(1) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transportation Service) serving as a crewmember of a vessel that was—

"(A) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office);

"(B) operated in waters other than inland waters, the Great Lakes, other lakes, bays, and harbors of the United States;

"(C) under contract or charter to, or property of, the Government of the United States; and

"(D) serving the Armed Forces; and

"(2) while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.

**"§ 11202. Documentation of qualified service**

"(a) The Secretary shall, upon application—

"(1) issue a certificate of honorable discharge to a person who, as determined by the Secretary, engaged in qualified service of a nature and duration that warrants issuance of the certificate; and

"(2) correct, or request the appropriate official of the Federal Government to correct, the service records of the person to the extent necessary to reflect the qualified service and the issuance of the certificate of honorable discharge.

"(b) The Secretary shall take action on an application under subsection (a) not later than one year after the Secretary receives the application.

"(c) In making a determination under subsection (a)(1), the Secretary shall apply the same standards relating to the nature and duration of service that apply to the issuance of honorable discharges under section 401(a)(1)(B) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note).

"(d) An official of the Federal Government who is requested to correct service records under subsection (a)(2) shall do so.

**§ 11203. Eligibility for certain veterans' benefits**

"(a) The qualified service of an individual who—

"(1) receives an honorable discharge certificate under section 11202 of this title, and

"(2) is not eligible under any other provision of law for benefits under laws administered by the Secretary of Veterans Affairs,

is deemed to be active duty in the Armed Forces during a period of war for purposes of

eligibility for benefits under chapters 23 and 24 of title 38.

"(b) The Secretary shall reimburse the Secretary of Veterans Affairs for the value of benefits that the Secretary of Veterans Affairs provides for an individual by reason of eligibility under this section.

"(c) An individual is not entitled to receive, and may not receive, benefits under this chapter for any period before the date on which this chapter takes effect.

**"§ 11204. Processing fees**

"(a) The Secretary shall collect a fee of \$30 from each applicant for processing an application submitted under section 11202(a) of this title.

"(b) Amounts received by the Secretary under this section shall be credited to appropriations available to the Secretary for carrying out this chapter."

(b) The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 111 the following:

"112. Merchant Mariner Benefits 11201".

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 255. A bill to require the Secretary of the Army to carry out such activities as are necessary to stabilize the bluffs along the Mississippi River in the vicinity of Natchez, MS, and for other purposes; to the Committee on Environment and Public Works.

**NATCHEZ BLUFFS STABILIZATION LEGISLATION**

Mr. LOTT. Mr. President, I rise today to introduce legislation to authorize the Corps of Engineers to stabilize sections of the Natchez Bluffs. The deterioration of these bluffs has created a profound danger to both life and property.

These bluffs overlook the Mississippi River and are formed by loess soil, a very fine powdery substance that practically liquefies when it gets wet. Water has infiltrated this soil causing numerous and unexpected mudslides and sloughing. This has put the historic homes on the bluffs and at their base in jeopardy.

Natchez has a long and distinguished history. Not only was this area the ancestral home for the Natchez Indians; it is the oldest settlement in my State. In fact, it is the oldest settlement on the Mississippi River, even older than New Orleans or St. Louis. When my State was a territory, Natchez was our capital, and during the antebellum times it was a major center for cotton trading. Natchez has been designated as a national historical park. The Natchez Trace, which was a major inland trade route during colonial days, historically started at these bluffs.

Last year the National Trust for Historic Preservation put Natchez on its list of America's "Eleven Most Endangered Historic Places." To quote Richard Moe, president of the National Trust:

The National Trust strongly supports the authorization for the Army Corps of Engineers to stabilize the bluffs. These historic resources are some of the most outstanding in the United States, and they must not be lost when there is an available remedy to the threat.

In March 1980, there was a very serious slide at the Natchez Bluffs that killed two people and injured many more. Last year there was another slide which carried away a significant portion of the bluffs. Clearly, the bluffs are now past the point of makeshift repair measures which the State and the municipality have attempted. Now is the time to have the Government Federal engineer step in. The Corps of Engineers examined the current situation, and their most recent draft report characterizes the deteriorating condition as an emergency.

I encourage all my colleagues to support this bill and the idea behind it. Not just due to the imminent danger posed to life by the real possibility for additional slides, but also for preserving nationally recognized historic property. I introduced similar legislation last year as Senate bill 1492, that would do essentially the same thing.

I am pleased to be joined by Senator THAD COCHRAN, the senior Senator from my State, in cosponsoring this legislation to protect these historically significant properties and to prevent potential loss of lives.

Mr. COCHRAN. Mr. President, I am pleased to join my colleague, Senator LOTT, in cosponsoring legislation which would authorize funds to stabilize the river bluffs at Natchez.

Two years ago, at my request, the Energy and Water Appropriations Subcommittee, in its fiscal year 1994 appropriations bill, asked the Corps of Engineers to undertake a technical study of the condition and possible stabilizing actions that could be taken. Last year, we asked the corps to prepare a second report focusing on updated cost estimates and, in light of more recent bad weather and deterioration, on the current severity of the situation. We have seen the corps' second report. In that report, the Corps of Engineers states what the Governor of Mississippi, the mayor of Natchez, and the people of Natchez have known and have been saying for some time: That the Natchez Bluff situation is an emergency.

Last October, the Natchez Democrat editorialized, "Each day that passes without a remedy, sections of the bluffs become more precarious, threatening homes and businesses." Natchez Bluffs is like a deteriorating health problem. Every day that goes by without action means that corrective action will be more complex and more expensive. And so, in this day when budget constraints are the watchword, it is even more imperative to move on truly important projects like this one without delay. More delay will mean more money. More delay will mean more hardship for the people of Natchez.

Therefore, I urge the Senate to approve this authorization for Corps of Engineers work in Natchez. Individuals homes, businesses, and important, historic sections of a grand old American city are at stake.

By Mr. DOLE (for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, and Mr. SIMPSON):

S. 256. A bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes; to the Committee on Armed Services.

#### MISSING SERVICE PERSONNEL ACT

Mr. DOLE. Mr. President, today I rise, with my colleagues, Senator SIMPSON, Senator LAUTENBERG, and Senator LIEBERMAN, to introduce the Missing Service Personnel Act of 1995. This legislation is similar to that which was introduced last year but which the Congress was unable to consider before adjournment. The legislation would reform the Department of Defense's procedures for determining whether members of the Armed Forces should be listed as missing or presumed dead. Legislation pertaining to those missing in action has not changed in the past 50 years. Since the Vietnam war, the Department of Defense and the U.S. Government have been criticized for their handling of the POW/MIA issue. Some of that criticism is legitimate. Some of it has been brought upon the Government by its own actions or inactions. This bill attempts to correct most of those problems and establish a fair and equitable procedure for determining the exact status of such personnel. At the same time, it is my hope that we might restore some of the Department's credibility on this issue and rebuild faith and trust between the public and our Federal Government.

This bill attempts to ensure that missing members of the Armed Forces or civilian employees accompanying them are fully accounted for by the Government and that they are not declared dead solely because of the passage of time. The legislation would establish new procedures for determining the whereabouts and status of missing persons. Additionally, the bill provides for the appointment of counsel for the missing persons, ensuring that the Government does not disregard their interests and affording them due process of law. The proposal also attempts to remove the curtains of secrecy which often seem to surround these cases by ensuring access to Government information and by making all information available to the hearing officers. Additionally, the missing person's complete personnel file would be made available for review by the family members. Moreover, the legislation attempts to protect the interests of the missing person's immediate family, dependents, and next of kin, allowing them to be represented by counsel and to participate with the boards of inquiry. It is our hope that by allowing more participation by the family, requiring legal representation of the missing persons, and permitting Federal court review of all determinations, we will establish fundamental fairness for all concerned.

We recognize that the Department of Defense has concerns about this legislation. At the same time, we also realize that families of missing personnel raise legitimate issues. However, in my view, we need to look at this issue from the perspective of those brave men and women currently serving in our Armed Forces. As this bill moves through the legislative process, it is our hope that all of these issues and concerns will be addressed.

Mr. President, the men and women in uniform must know that this Nation will do everything possible to return them safely home in the event they become missing while serving in armed conflict. Additionally, we must assure them that a more open and fair procedure will be established to determine their exact status.

In closing, let me note the support that this legislation has already received. I have received letters encouraging the introduction of this bill from the American Legion, the Disabled American Veterans, the National Vietnam Veterans Coalition, and Vietnow.

Additionally, in just the short time between its introduction last year and our adjournment, this legislation gained a total of 23 cosponsors. I am pleased to again sponsor this important legislation with the distinguished Senator from New Jersey, and urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill and letters from each of these organizations be printed in the RECORD following my statement.

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

S. 256

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Missing Service Personnel Act of 1995".

#### SEC. 2. PURPOSE.

The purpose of this Act is to ensure that any member of the Armed Forces and any civilian employee of the Federal Government or contractor of the Federal Government who serves with or accompanies an Armed Force in the field under orders is fully accounted for by the Federal Government and, as a general rule, is not declared dead solely because of the passage of time.

#### SEC. 3. DETERMINATION OF WHEREABOUTS AND STATUS OF CERTAIN MISSING PERSONS.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end of the following new section:

##### **"§1060b. Missing persons: informal investigations; inquiries; determinations of death; personnel files**

"(a) INFORMAL INVESTIGATIONS.—

"(1) IN GENERAL.—After receiving factual information that the whereabouts or status of a person described in paragraph (2) is uncertain and that the absence of the person may be involuntary, the military commander of the unit, facility, or area to or in which the person is assigned shall conduct an investigation into the whereabouts and status of the person.

"(2) COVERED PERSONS.—Paragraph (1) applies to the following individuals:

"(A) Any member of the armed forces who disappears during a time or war or national emergency, or during a period of such other hostilities as the Secretary of Defense may prescribe.

"(B) Any civilian employee of the Federal Government (including an employee of a contractor of the Federal Government) who—

"(i) serves with or accompanies an armed force in the field during such a time or period; and

"(ii) disappears during such service or accompaniment.

"(3) FURTHER ACTIVITIES.—As a result of an investigation into the whereabouts and status of a person under paragraph (1), a commander shall—

"(A) place the person in a missing status;

"(B) submit a notice that the person has been placed in a missing status to—

"(i) in the case of a person who is a member of the armed forces, the officer having general court-martial authority over the person;

"(ii) in the case of a person who is a civilian employee of the Federal Government or contractor of the Federal Government, the Secretary of the department employing the person or contracting with the contractor;

"(C) retain and safeguard for official use any information, documents, records, statements, or other evidence relating to the whereabouts or status of the person that result from the investigation or from actions taken to locate the person; and

"(D) submit to the officer having general court-martial authority over the person, in the case of a member of the armed forces, or to the Secretary of the department employing the person or contracting with the contractor, in the case of a civilian employee of the Federal Government or contractor of the Federal Government, as the case may be—

"(i) not later than 48 hours after the date on which the absence of the person is officially noted, a report that—

"(I) contains information on the absence or disappearance of the person;

"(II) describes the actions taken to locate the person; and

"(III) sets forth any information relating to the whereabouts or status of the person not contained in any previous report;

"(ii) not later than 7 days after such date, a report that—

"(I) summarizes the actions taken to locate the person; and

"(II) sets forth any information relating to the whereabouts or status of the person not contained in any previous report;

"(iii) not later than 30 days after such date, a report that—

"(I) summarizes the continuing actions to locate the person; and

"(II) sets forth any information on the whereabouts or status of the person that results from such actions; and

"(iv) at any other time, a report that sets forth any other information that may be relevant to the whereabouts or status of the person.

"(b) INITIAL INQUIRY.—

"(1) IN GENERAL.—Not later than 7 days after receiving notification under subsection (a)(3)(B) that a person has been placed in missing status, the officer having general court-martial authority over the person, in the case of a person who is a member of the armed forces, or the Secretary of the department employing the person or contracting with the contractor, in the case of a person who is a civilian employee of the Federal Government or contractor of the Federal

Government, shall appoint a board to conduct an inquiry into the whereabouts and status of the person.

“(2) SCOPE OF CERTAIN INQUIRIES.—If it appears to the official who appoints a board under this subsection that the absence or missing status of two or more persons is factually related, the official may appoint one board under this subsection to conduct the inquiry into the whereabouts or status of the persons.

“(3) COMPOSITION.—

“(A) IN GENERAL.—A board appointed under this subsection shall consist of at least one individual described in subparagraph (B) who has experience with and understanding of military operations or activities similar to the operation or activity in which the person or persons disappeared.

“(B) REQUIRED MEMBER.—An individual referred to in subparagraph (A) is the following:

“(i) A military officer, in the case of an inquiry with respect to a member of the armed forces.

“(ii) A civilian, in the case of an inquiry with respect to a civilian employee of the Federal Government or contractor of the Federal Government.

“(C) ACCESS TO CLASSIFIED INFORMATION.—Each member of a board appointed for an inquiry under this subsection shall have a security clearance that affords the member access to all information relating to the whereabouts and status of the missing person or persons covered by the inquiry.

“(4) ACTIVITIES.—A board appointed to conduct an inquiry into the whereabouts or status of a missing person or persons under this subsection shall—

“(A) collect, develop, and investigate all facts and evidence relating to the disappearance, whereabouts, or status of the person or persons;

“(B) collect appropriate documentation of the facts and evidence covered by the investigation;

“(C) analyze the facts and evidence, make findings based on the analysis, and draw conclusions as to the current whereabouts and status of the person or persons; and

“(D) recommend to the officer having general court-martial authority over the person, in the case of a person who is a member of the armed forces, or the Secretary of the department employing the person or contracting with the contractor, in the case of a person who is a civilian employee of the Federal Government or contractor of the Federal Government, that—

“(i) the person or persons continue to have a missing status; or

“(ii) the person or persons be declared (I) to have deserted, (II) to be absent without leave, or (III) to be dead.

“(5) INQUIRY PROCEEDINGS.—During the proceedings of an inquiry under this subsection, a board shall—

“(A) collect, record, and safeguard all classified and unclassified facts, documents, statements, photographs, tapes, messages, maps, sketches, reports, and other information relating to the whereabouts or status of the person or persons covered by the inquiry;

“(B) gather facts and information relating to actions taken to find the person or persons, including any evidence of the whereabouts or status of the person or persons that arises from such actions; and

“(C) maintain a record of the proceedings.

“(6) COUNSEL FOR MISSING PERSON.—

“(A) IN GENERAL.—The official who appoints a board to conduct an inquiry under this subsection shall appoint counsel to represent the person or persons covered by the inquiry.

“(B) QUALIFICATIONS.—An individual appointed as counsel under this paragraph shall—

“(i) meet the qualifications set forth in section 827(b) of this title (article 27(b) of the Uniform Code of Military Justice); and

“(ii) have a security clearance that affords the individual access to all information relating to the whereabouts or status of the person or persons covered by the inquiry.

“(C) RESPONSIBILITIES AND DUTIES.—An individual appointed as counsel under this paragraph—

“(i) shall have access to all facts and evidence considered by the board during the proceedings under the inquiry for which the counsel is appointed;

“(ii) shall observe all official activities of the board during such proceedings;

“(iii) may question witnesses before the board;

“(iv) shall monitor the deliberations of the board;

“(v) shall review the report of the board under paragraph (9); and

“(vi) shall submit to the official who appointed the board an independent review of such report.

“(D) TREATMENT OF REVIEW.—A review of the report of a board on an inquiry that is submitted under subparagraph (C)(vi) shall be made an official part of the record of the board with respect to the inquiry.

“(7) ACCESS TO MEETINGS.—The proceedings of a board during an inquiry under this subsection shall be closed to the public, including to any member of the immediate family, dependent, primary next of kin, or previously designated person of the person or persons covered by the inquiry.

“(8) RECOMMENDATION ON STATUS.—

“(A) IN GENERAL.—Upon completion of an inquiry into the whereabouts or status of a person or persons under this subsection, a board shall make a recommendation to the official who appointed the board as to the current whereabouts or status of the person or persons.

“(B) RECOMMENDATION OF STATUS AS DEAD.—

“(i) IN GENERAL.—A board may not recommend under subparagraph (A) that a person or persons be declared dead unless conclusive proof of the death of the person or persons is established by the board.

“(ii) DEFINITION.—In this subparagraph, the term ‘conclusive proof of death’, in the case of a person or persons, means evidence establishing that death is the only plausible explanation for the absence of the person or persons.

“(9) REPORT.—

“(A) REQUIREMENT.—A board appointed under this subsection shall submit to the official who appointed the board a report on the inquiry carried out by the board. Such report shall include—

“(i) a discussion of the facts and evidence considered by the board in the inquiry; and

“(ii) the recommendation of the board under paragraph (8).

“(B) SUBMITTAL DATE.—A board shall submit a report under this paragraph not later than 45 days after the date of the first official notice of the disappearance of the person or persons covered by the inquiry described in the report.

“(C) PUBLIC AVAILABILITY.—A report submitted under this paragraph may not be made public until 1 year after the date referred to in subparagraph (B).

“(10) ACTIONS BY APPOINTING OFFICIAL.—

“(A) REVIEW.—Not later than 15 days after the date of the receipt of a report from a board under paragraph (9), the official who appointed the board shall review—

“(i) the report; and

“(ii) the review submitted under paragraph (6)(C)(vi) by the counsel for the person or persons covered by the inquiry described in the report.

“(B) SCOPE OF REVIEW.—In conducting a review of a report under subparagraph (A), the official receiving the report shall determine whether or not the report is complete and free of administrative error.

“(C) RETURN.—If an official determines under subparagraph (B) that a report is incomplete, or that a report is not free of administrative error, the official may return the report to the board for further action on the report by the board.

“(D) DETERMINATION OF STATUS.—Upon a determination by the official concerned that a report reviewed by the official under this paragraph is complete and free of administrative error, the official shall make a determination of the status of the person or persons covered by the report.

“(11) REPORT TO INTERESTED PERSONS.—Not later than 90 days after the first official notice of the disappearance of a person or persons, the official who appoints a board of inquiry into the whereabouts or status of the person or person under this subsection shall—

“(A) provide an unclassified summary of the report of the board to the members of the immediate family, dependents, primary next of kin, and previously designated persons of the person or persons; and

“(B) inform the individuals referred to in subparagraph (A) that the Federal Government will conduct a subsequent inquiry into the whereabouts or status of the person or persons not earlier than 1 year after the date of the first official notice of the disappearance of the person or persons, unless information becomes available sooner that would result in a substantial change in the official status of the person or persons.

“(12) ADDITIONAL INVESTIGATION.—

“(A) IN GENERAL.—If information on the whereabouts or status of a person or persons covered by an inquiry under this subsection becomes available within 1 year after the date of the first official notice of the disappearance of the person or persons, the official who appointed the board to inquire into the whereabouts or status of the person or persons under this subsection shall appoint an additional board to conduct an inquiry into the information

“(B) CONDUCT OF INQUIRY.—The appointment and activities of a board under this paragraph shall be subject to the provisions of this subsection.

“(c) SUBSEQUENT INQUIRY.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—If as a result of an inquiry under subsection (b) an official determines under paragraph (10)(D) of that subsection that a person or persons retain or be placed in a missing status, the Secretary concerned shall appoint a board under this subsection to conduct an inquiry into the whereabouts and status of the person or persons.

“(B) DEFINITION.—For purposes of this subsection, the term ‘Secretary concerned’ means the following:

“(i) In the case of a member of the armed forces, the Secretary of the military department having jurisdiction over the armed force of the member.

“(ii) In the case of a civilian employee of the Federal Government or contractor of the Government, the Secretary of the department employing the employee or contracting with the contractor, as the case may be.

“(2) DATE OF APPOINTMENT.—The Secretary concerned shall appoint a board under this subsection to conduct an inquiry into the whereabouts and status of a person or persons on or about 1 year after the date of the

first official notice of the disappearance of the person or persons.

"(3) SCOPE OF CERTAIN INQUIRIES.—If it appears to the Secretary concerned that the absence or status of two or more persons is factually related, the Secretary may appoint one board under this subsection to conduct the inquiry into the whereabouts or status of the persons.

"(4) COMPOSITION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a board appointed under this subsection shall consist of the following:

"(i) In the case of a board appointed to inquire into the whereabouts or status of a member or members of the armed forces, not less than three officers having a grade O-4 or higher.

"(ii) In the case of a board appointed to inquire into the whereabouts or status of a civilian employee or employees of the Federal Government or contractor of the Government—

"(I) not less than three civilian employees of the Federal Government whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS-13 of the General Schedule under section 5332 of title 5; and

"(II) such members of the armed forces as the Secretary concerned and the Secretary of Defense jointly determine advisable.

"(B) PRESIDENT OF BOARD.—The Secretary concerned shall designate one member of each board appointed under this subsection as President of the board. The President shall have a security clearance that affords the President access to all information relating to the whereabouts and status of the person or persons covered by the inquiry.

"(C) REQUIREMENTS FOR OTHER MEMBERS.—

"(i) ATTORNEY.—One member of each board appointed under this subsection shall be an attorney, or judge advocate, who has expertise in the public law relating to missing persons, the determination of death of such persons, and the rights of family members and dependents of such persons.

"(ii) OCCUPATIONAL SPECIALIST.—One member of each board appointed under this subsection shall be an individual who has—

"(I) an occupational specialty similar to that of one or more of the persons covered by the inquiry; and

"(II) an understanding of and expertise in the official activities of one or more such persons at the time such person or persons disappeared.

"(iii) EXPERT IN TRANSPORTATION.—If the person or persons covered by an inquiry disappeared in transit, one member of the board appointed for the inquiry shall be an individual whose occupational specialty relates to the piloting, navigation, or operation of the mode of transportation in which the person or persons were travelling at the time such person or persons disappeared.

"(5) ACTIVITIES.—A board appointed under this subsection to conduct an inquiry into the whereabouts or status of a person or persons shall—

"(A) review the report under paragraph (9) of subsection (b) of the board appointed to conduct the inquiry into the status or whereabouts of the person or persons under subsection (b) and the determination under paragraph (10)(D) of that subsection of the official who appointed the board under that subsection as to the status of the person or persons;

"(B) collect and evaluate any documents, facts, or other evidence with respect to the whereabouts or status of the person or persons that have become available since the completion of the inquiry under subsection (b);

"(C) draw conclusions as to the whereabouts or status of the person or persons;

"(D) determine on the basis of the activities under subparagraphs (A) and (B) whether the status of the person or persons should be continued or changed; and

"(E) issue a report to the Secretary concerned describing the findings and conclusions of the board, together with a recommendation on the whereabouts or status of the person or persons.

"(6) COUNSEL FOR MISSING PERSON OR PERSONS.—

"(A) IN GENERAL.—The Secretary who appoints a board to conduct an inquiry under this subsection shall appoint counsel to represent the person or persons covered by the inquiry.

"(B) QUALIFICATIONS.—An individual appointed as counsel under this paragraph shall—

"(i) meet the qualifications set forth in section 827(b) of this title (article 27(b) of the Uniform Code of Military Justice); and

"(ii) have a security clearance that affords the individual access to all information relating to the whereabouts or status of the person or persons.

"(C) RESPONSIBILITIES AND DUTIES.—An individual appointed as counsel under this paragraph—

"(i) shall have access to all facts and evidence considered by the board during the proceedings under the inquiry for which the counsel is appointed;

"(ii) shall observe all official activities of the board during such proceedings;

"(iii) may question witnesses before the board;

"(iv) shall monitor the deliberations of the board; and

"(v) shall review the report of the board under paragraph (11); and

"(vi) shall submit to the Secretary concerned an independent review of the recommendation of the board under paragraph (10).

"(D) TREATMENT OF REVIEW.—The review of the report of a board on an inquiry that is submitted under subparagraph (C)(vi) shall be made an official part of the record of the board with respect to the inquiry.

"(7) PARTICIPATION OF CERTAIN INTERESTED PERSONS IN PROCEEDINGS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the members of the immediate family, dependents, primary next of kin, and previously designated persons of the person or persons covered by an inquiry under this subsection may participate at the proceedings of the board during the inquiry.

"(B) NOTIFICATION OF PERSONS.—The Secretary concerned shall notify the individuals referred to in subparagraph (A) of the opportunity to participate at the proceedings of a board not later than 60 days before the first meeting of the board.

"(C) RESPONSE.—An individual who receives notice under subparagraph (B) shall notify the Secretary of the intent, if any, of the individual to participate at the proceedings of a board not later than 21 days after the date of the individual's receipt of the notice.

"(D) SCHEDULE AND LOCATION OF PROCEEDINGS.—The Secretary shall, to the maximum extent practicable, provide that the schedule and location of the proceedings of a board under this subsection be established so as to be convenient to the individuals who notify the Secretary under subparagraph (C) of their intent to participate at such proceedings.

"(E) MANNER OF PARTICIPATION.—Individuals who notify the Secretary under subparagraph (C) of their intent to participate at the proceedings of a board—

"(i) in the case of individuals whose entitlement to the pay or allowances (including allotments) of a missing person could be re-

duced or terminated as a result of a revision in the status of the missing person, may attend the proceedings of the board with private counsel;

"(ii) shall have access to the personnel file of the missing person, to unclassified reports (if any) of the board appointed under subsection (b) to conduct the inquiry into the whereabouts and status of the person, and to any other unclassified information or documents relating to the whereabouts and status of the person;

"(iii) shall be afforded the opportunity to present information at the proceedings that such individuals consider to be relevant to the proceedings; and

"(iv) subject to subparagraph (F), shall be afforded the opportunity to submit in writing objections to the recommendations of the board under paragraph (10) as to the status of the missing person.

"(F) OBJECTIONS.—Objections to the recommendations of the board under subparagraph (E)(iv) shall be submitted to the President of the board not later than 24 hours after the date on which such recommendations are made. The President shall include the objections in the report of the board to the Secretary concerned under paragraph (12).

"(G) PROHIBITION ON REIMBURSEMENT.—Individuals referred to in subparagraph (A) who participate in the proceedings of a board under this paragraph shall not be entitled to reimbursement by the Federal Government for any costs incurred by such individuals in attending such proceedings, including travel, lodging, meals, local transportation, legal fees, transcription costs, witness expenses, and other expenses.

"(8) AVAILABILITY OF INFORMATION TO BOARDS.—

"(A) IN GENERAL.—In conducting proceedings in an inquiry under this subsection, a board may secure directly from any department or agency of the Federal Government any information that the members of the board consider necessary in order to conduct the proceedings.

"(B) AUTHORITY TO RELEASE.—Upon written request from the President of a board, the head of a department or agency of the Federal Government shall release information covered by the request to the board. In releasing such information, the head of the department or agency shall—

"(i) declassify to an appropriate degree classified information; or

"(ii) release the information in a manner not requiring the removal of markings indicating the classified nature of the information.

"(C) TREATMENT OF CLASSIFIED INFORMATION.—

"(i) RELEASE.—If a request for information under subparagraph (B) covers classified information that cannot be declassified, cannot be removed before release from the information covered by the request, or cannot be summarized in a manner that prevents the release of classified information, the classified information shall be made available only to the President of the board making the request and the counsel for the missing person appointed under paragraph (6).

"(ii) USE IN PROCEEDINGS.—The President of a board shall close to persons who do not have appropriate security clearances the proceeding of the board at which classified information is discussed. Participants at a proceeding of a board at which classified information is discussed shall comply with all applicable laws and regulations relating to the disclosure of classified information. The Secretary concerned shall assist the President of a board in ensuring that classified information is not compromised through board proceedings.

“(9) BOARD MEETINGS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the proceedings of a board under this subsection shall be open to the public.

“(B) EXCEPTIONS.—A proceeding of a board shall be closed to the public at the request of the following:

“(i) The counsel appointed under paragraph (6) for the person or persons covered by the proceeding.

“(ii) Any member of the immediate family, dependent, primary next of kin, or previously designated person of the person or persons.

“(iii) The Secretary who appointed the board, but only if such Secretary determines that a proceeding open to the public could jeopardize the health and well-being of other missing persons or impair the activities of the Federal Government to recover missing persons in the theater of operations or the area in which the missing person or persons are thought to have disappeared.

“(iv) The President of the board, but only for discussion of classified information.

“(10) RECOMMENDATION ON STATUS.—

“(A) IN GENERAL.—Upon completion of proceedings in an inquiry under this subsection, a board shall make a recommendation as to the current whereabouts or status of the missing person or persons covered by the inquiry.

“(B) RECOMMENDATION OF DEAD STATUS.—

“(i) IN GENERAL.—A board may not recommend under subparagraph (A) that a person or persons be declared dead unless—

“(I) conclusive proof of death is established by the board; and

“(II) in making the declaration, the board complies with subsection (f).

“(ii) DEFINITION.—In this subparagraph, the term ‘conclusive proof of death’, in the case of a person or persons, means evidence establishing that death is the only plausible explanation for the absence of the person or persons.

“(11) REPORT.—

“(A) REQUIREMENT.—A board appointed under this subsection shall submit to the Secretary concerned a report on the inquiry carried out by the board, together with the evidence considered by the board during the inquiry.

“(B) CLASSIFIED ANNEX.—The report may include a classified annex.

“(12) ACTIONS BY SECRETARY.—

“(A) REVIEW.—Not later than 30 days after the receipt of a report from a board under paragraph (11), the Secretary concerned shall review—

“(i) the report;

“(ii) the review submitted to the Secretary under paragraph (6)(C)(vi) by the counsel for the person or persons covered by the report; and

“(iii) the objections, if any, to the report submitted to the President of the board under paragraph (7)(F).

“(B) SCOPE OF REVIEW.—In reviewing the report, review, and objections under subparagraph (A), the Secretary shall determine whether or not the report is complete and free of administrative error.

“(C) FURTHER ACTION.—If the Secretary determines under subparagraph (B) that a report is incomplete, or that a report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

“(D) DETERMINATION OF STATUS.—Upon a determination by the Secretary that a report reviewed by the Secretary under this paragraph is complete and free of administrative error, the Secretary shall make a determination of the status of the person or persons covered by the report.

“(13) REPORT TO INTERESTED PERSONS.—Not later than 90 days after a board submits a re-

port on a person or persons under paragraph (11), the Secretary concerned shall—

“(A) provide an unclassified summary of the report to the members of the immediate family, the dependents, the primary next of kin, and the previously designated persons of the person or persons covered by the report; and

“(B) in the case of a person or persons who continue to be in missing status, inform the members, dependents, kin, and persons of the person or persons that the Federal Government will conduct a further investigation into the whereabouts or status of the person or persons not later than 3 years after the date of the official notice of the disappearance of the person or persons, unless information becomes available within that time that would result in a substantial change in the official status of the person or persons.

“(14) RECONVENING OF BOARD.—

“(A) IN GENERAL.—If the Secretary concerned recommends that a person or persons continue in missing status, or that a missing person previously declared dead be given a missing status, the Secretary shall reconvene the board when information becomes available that would directly lead to a determination of status of the missing person or persons.

“(B) CONDUCT OF PROCEEDINGS.—The provisions of this subsection shall apply to the activities of a board convened under this paragraph.

“(d) FURTHER REVIEW.—

“(1) SUBSEQUENT REVIEW.—

“(A) IN GENERAL.—The Secretary concerned shall appoint a board to conduct an inquiry into the whereabouts or status of any person or persons determined by the Secretary under subsection (c)(12)(D) to be a person or persons in missing status.

“(B) FREQUENCY OF APPOINTMENT.—Subject to subparagraph (C), the Secretary shall appoint a board to conduct an inquiry with respect to a person or persons under this paragraph—

“(i) on or about 3 years after the date of the official notice of the disappearance of the person or persons; and

“(ii) not later than every 3 years thereafter.

“(C) DELIMITING DATE.—The Secretary shall not be required to appoint a board under this paragraph more than 12 years after the end of the time of war or emergency or period of hostilities in which the missing person or persons disappeared.

“(2) REVIEW OF PROBATIVE INFORMATION.—Upon receipt of information that could result in a change or revision of status of a missing person or persons, the Secretary concerned shall appoint a board to evaluate the information and make a recommendation as to the status of the person or persons to which the information relates.

“(3) CONDUCT OF PROCEEDINGS.—The appointment of and activities before a board appointed under this subsection shall be governed by the provisions of subsection (c).

“(e) PERSONNEL FILES.—

“(1) INFORMATION IN FILES.—Except as provided in paragraph (2), the Secretary of the department having jurisdiction over a missing person at the time of the person's disappearance shall, to the maximum extent practicable, ensure that the personnel file of the person contains all information in the possession of the Federal Government relating to the disappearance and whereabouts or status of the person.

“(2) CLASSIFIED INFORMATION.—

“(A) AUTHORITY TO WITHHOLD.—The Secretary concerned may withhold classified information from a personnel file under this subsection.

“(B) NOTICE OF WITHHOLDING.—If the Secretary concerned withholds classified infor-

mation from the personnel file of a person, the Secretary shall ensure that the file contains the following:

“(i) A notice that the withheld information exists.

“(ii) A notice of the date of the most recent review of the classification of the withheld information.

“(3) WRONGFUL WITHHOLDING.—Any person who knowingly and willfully withholds from the personnel file of a missing person any information (other than classified information) relating to the disappearance or whereabouts or status of a missing person shall be fined as provided in title 18, or imprisoned not more than 1 year, or both.

“(4) AVAILABILITY OF INFORMATION.—The Secretary concerned shall, upon request, make available the contents of the personnel file of a missing person to members of the immediate family, dependents, primary next of kin, or previously designated person of the person.

“(f) RECOMMENDATION OF STATUS OF DEATH.—

“(1) REQUIREMENTS RELATING TO RECOMMENDATION.—A board appointed under subsection (c) or (d) may not recommend that a person be declared dead unless—

“(A) evidence (other than the passage of a period of time of less than 50 years) exists to suggest that the person is dead;

“(B) the Federal Government possesses no evidence that reasonably suggests that the person is alive;

“(C) representatives of the Federal Government have made a complete search of the area where the person was last seen (unless, after making every good faith effort to obtain access to such area, such representatives are not granted such access); and

“(D) representatives of the Federal Government have examined the records of the government or entity having control over the area where the person was last seen (unless, after making every good faith effort to obtain access to such records, such representatives are not granted such access).

“(2) SUBMITTAL OF INFORMATION ON DEATH.—If a board appointed under subsection (c) or (d) makes a recommendation that a missing person be declared dead, the board shall include in the report of the board with respect to the person under such subsection (c) or (d) the following:

“(A) A detailed description of the location where the death occurred.

“(B) A statement of the date on which the death occurred.

“(C) A description of the location of the body, if recovered.

“(D) If the body has been recovered, a certification by a licensed practitioner of forensic medicine that the body recovered is that of the missing person.

“(g) JUDICIAL REVIEW.—

“(1) IN GENERAL.—

“(A) JUDICIAL REVIEW.—A person referred to in subparagraph (B) may obtain review of a finding described in subparagraph (C) by the court of appeals of the United States for the circuit in which the person resides or in which the finding was made.

“(B) AVAILABILITY OF REVIEW.—Subparagraph (A) applies to any of the following persons with respect to a missing person subject to a finding described in subparagraph (C):

“(i) A member of the immediate family of the person.

“(ii) A dependent of the person.

“(iii) The primary next of kin of the person.

“(iv) A person previously designated by the person.

“(C) COVERED FINDINGS.—Subparagraph (A) applies to the following findings:



“(i) A finding by a board appointed under subsection (c) or (d) that a missing person is dead.

“(ii) A finding by a board appointed under subsection (h) that confirms that a missing person formerly declared dead is in fact dead.

“(D) COMMENCEMENT OF REVIEW.—A person referred to in subparagraph (B) shall request review of a finding under this paragraph by filing with the appropriate court a written petition requesting that the finding be set aside.

“(2) APPEAL AND FINALITY OF REVIEW.—The decision of the court of appeals on a petition for review under paragraph (1) shall be final, except that it shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

“(3) ADDITIONAL REVIEW.—

“(A) IN GENERAL.—Subject to subparagraph (B), upon request by a person referred to in paragraph (1)(B), the Secretary concerned shall appoint a board to review the status of a person covered by a finding described in paragraph (1)(C) if the court of appeals sets aside the finding and—

“(i) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed;

“(ii) the petition for certiorari has been denied; or

“(iii) the decision of the court of appeals has been affirmed by the Supreme Court.

“(B) DELIMITING DATE.—A person referred to in subparagraph (A) shall make a request referred to in that subparagraph not later than 3 years after the date of the event under that subparagraph that entitles the person to request the appointment of a board.

“(h) PERSONS PREVIOUSLY DECLARED DEAD.—

“(1) REVIEW OF STATUS.—

“(A) IN GENERAL.—Not later than 2 years after the date of the enactment of the Missing Service Personnel Act of 1994, a person referred to in subparagraph (B) may submit to the appropriate Secretary a request for appointment by the Secretary of a board to review the status of a person previously declared dead.

“(B) AVAILABILITY.—A board shall be appointed under this paragraph based on the request of any of the following persons:

“(i) An adult member of the immediate family of a person previously declared dead.

“(ii) An adult dependent of such person.

“(iii) The primary next of kin of such person.

“(iv) A person previously designated by such person.

“(C) APPROPRIATE SECRETARY.—A request under this paragraph shall be submitted to the Secretary of the department of the Federal Government that had jurisdiction over the person covered by the request at the time of the person's disappearance.

“(2) APPOINTMENT OF BOARD.—Upon request of a person under paragraph (1), the Secretary concerned shall appoint a board to review the status of the person covered by the request.

“(3) ACTIVITIES OF BOARD.—A board appointed under paragraph (2) to review the status of a person shall—

“(A) conduct an investigation to determine the status of the person; and

“(B) issue a report describing the findings of the board under the investigation and the recommendations of the board as to the status of the person.

“(4) SUBSEQUENT REVIEW.—If the Secretary concerned is apprised of any information which would directly lead to a determination of the status of a missing person, the Secretary shall reconvene a board to consider the information.

“(5) EFFECT OF CHANGE IN STATUS.—If a board appointed under this subsection recommends placing a person previously declared dead in a missing status such person shall accrue no pay or allowances as a result of the placement of the person in such status.

“(i) RETURN ALIVE OF PERSON DECLARED MISSING OR DEAD.—

“(1) PAY AND ALLOWANCES.—Any person in a missing status or declared dead under the Missing Persons Act of 1942 (56 Stat. 143) or by a board appointed under this section who is found alive and returned to the control of the United States shall be paid for the full time of the absence of the person while given that status or declared dead under the law and regulations relating to the pay and allowances of persons returning from a missing status.

“(2) EFFECT ON GRATUITIES PAID AS A RESULT OF STATUS.—Paragraph (1) shall not be interpreted to invalidate or otherwise affect the receipt by any person of a death gratuity or other payment from the United States on behalf of a person referred to in paragraph (1) before the date of the enactment of the Missing Service Personnel Act of 1994.

“(j) EFFECT ON STATE LAW.—Nothing in this section shall be construed to invalidate or limit the power of any State court or administrative entity, or the power of any court or administrative entity of any political subdivision thereof, to find or declare a person dead for purposes of the such State or political subdivision.

“(k) DEFINITIONS.—In this section:

“(1) The term ‘classified information’ means any information the unauthorized disclosure of which (as determined under applicable law and regulations) could reasonably be expected to damage the national security.

“(2) The term ‘dependent’, in the case of a missing person, mean any individual who would, but for the status of the person, be entitled to receive the pay and allowances (including allotments) of the person.

“(3) The term ‘member of the immediate family’, in the case of a missing person, means the spouse, adopted or natural child, parent, and sibling of the missing person.

“(4) The term ‘missing person’ means—

“(A) a member of the armed forces on active duty who is missing; or

“(B) a civilian employee serving with or accompanying an armed force under orders who is missing.

“(6) The term ‘missing status’ means the status of a missing person who is determined to be absent in a status of—

“(A) missing;

“(B) missing in action;

“(C) interned in a foreign country;

“(D) captured, beleaguered, or besieged by a hostile force; or

“(E) detained in a foreign country against his or her will.

“(6) The term ‘primary next of kin’, in the case of a missing person, means—

“(A) the principal individual who, but for the status of the person, would receive financial support from the person; or

“(B) in the case of a missing person for whom there is no individual meeting the requirement of subparagraph (A), the family member or other individual designated by the missing person to receive death gratuities.

“(7) The term ‘previously designated person’, in the case of a missing person, means an individual (other than an individual who is a member of the immediate family of the missing person) designated by the missing person as the individual to be notified of all matters relating to the status of the missing person.

“(8) The term ‘State’ means any State, the District of Columbia, the Commonwealth of

Puerto Rico, and any territory or possession of the United States.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding the end the following:

“1060b. Missing persons: informal investigations; inquiries; determinations of death; personnel files.”.

(c) CONFORMING AMENDMENTS.—(1)(A) Section 555 of title 37, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 10 of such title is amended by striking out the item relating to section 555.

(2) Section 552 of such title is amended—

(A) in the second sentence of the flush matter following paragraph (2) in subsection (a), by striking out “for all purposes,” and all that follows through the end of the sentence and inserting in lieu thereof “for all purposes.”;

(B) in striking out paragraph (2) of subsection (b) and inserting in lieu thereof the following:

“(2) that his death is determined under section 1060b of title 10.”; and

(C) in subsection (e), by striking “section 555 of this title” and inserting “section 1060b of title 10”.

(3) Section 553 of such title is amended—

(A) in subsection (f), by inserting “under section 1060b of title 10” after “When the Secretary concerned”;

(B) by striking out “the Secretary concerned receives evidence” and inserting in lieu thereof “a board convened under section 1060b of title 10 reports”; and

(C) in subsection (g), by striking out “section 555 of this title” and inserting “section 1060b of title 10”.

(4) Section 556 of such title is amended—

(A) in subsection (a)—

(i) by inserting “and” at the end of paragraph (3);

(ii) by striking out the semicolon at the end of paragraph (4) and inserting in lieu thereof a period; and

(iii) by striking paragraphs (1), (5), (6), and (7) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(B) by striking out subsection (b) and redesignating subsections (c), (d), (e), (f), (g), and (h) as subsections (b), (c), (d), (e), (f), and (g), respectively; and

(C) in subsection (g), as so redesignated—

(i) by striking out the second sentence; and

(ii) by striking “status” and inserting “pay”.

(5) Section 557(a)(1) of such title is amended by striking out “, 553, and 555” and inserting in lieu thereof “and 553”.

(6) Section 559(b)(4)(B) of such title is amended by striking out “section 556(f)” and inserting in lieu thereof “section 556(e)”.

#### SEC. 4. SOLICITATION OF INFORMATION ON DEPENDENTS, FAMILY MEMBERS, AND OTHER DESIGNATED PERSONS.

(a) REQUIREMENT.—Chapter 31 of title 10, United States Code, is amended by adding at the end the following:

#### “§ 520c. Enlistments: information on dependents, family members, and other designated persons

“(a) The Secretary concerned shall, upon the enlistment or commission of a person in an armed force, require that the person specify in writing the dependents of the person, the members of the immediate family of the person, the primary next of kin of the person, and any other individual that the person shall designate for purposes of section 1060b of this title. The purpose of the specification is to ensure the notification of appropriate individuals in the event that



the person is placed in missing status under that section.

"(b) The Secretary concerned shall, upon the request of a person referred to in subsection (a), permit the person to revise at any time the individuals specified by the person under that subsection. The person shall make any such revision in writing."

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following: "520c. Enlistments: information on dependents, family members, and other designated persons."

THE AMERICAN LEGION,  
Washington, DC, January 17, 1995.

Hon. ROBERT J. DOLE,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR DOLE: A new calendar year and the convening of a new Congress affords all Americans a unique opportunity to renew their pledge to support all positive efforts to obtain the fullest possible accounting of American prisoners of war and those missing in action from past conflicts and the Cold War. The American Legion is especially appreciative of your personal efforts and concern for the plight of American POW/MIAs. Your introduction of the Dole-Lautenberg bill, The Missing Service Personnel Act of 1995, is both timely and welcome. It directly and substantially supports on-going Legion efforts to seek information about missing Americans from previous wars.

Your sponsorship of this bill is especially significant since it comes at a time when American contacts with foreign governments are more interested in making lucrative business arrangements than in obtaining a full and complete accounting of missing service personnel. With the lifting of the embargo against Vietnam early last year the U.S. lost its last major bargaining lever for POWs and MIAs from the war in Southeast Asia. Your bill, supported by the Senate in the 104th Congress will serve to provide a more equitable basis for making status determinations on missing service personnel from wars past and conflicts yet to be fought.

Sincerely,

JOHN F. SOMMER, Jr.,  
Executive Director.

DISABLED AMERICAN VETERANS,  
Washington, DC, January 17, 1995.

Hon. BOB DOLE,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR DOLE: On behalf of the Disabled American Veterans (DAV), I take this opportunity to express our appreciation for your support last year for legislation to establish procedures for determining the whereabouts and status of missing American service members and to require the keeping of certain records on these persons. I understand that you intend to reintroduce a similar bill in the near future, and I therefore also write to express the DAV's full support for your efforts.

Your actions are a recognition of this nation's most important obligation to resolve questions about the fate of those missing-in-action. As a nation, we must do everything possible to account for those who have not returned, those that were captured or killed in the service of their country. Anything less would be an abandonment of our solemn responsibilities to these courageous defenders and would be a concession of defeat in the struggle to recover those who sacrificed so much for our benefit.

The members of DAV are deeply concerned for the nearly 100,000 of our fellow service-

men and women still unaccounted for in the aftermath of World War II, the Korean War, the Vietnam War, and subsequent military engagements, and we hope for a means to better account for our service members in any future conflicts. The delegates to our 1994 annual National Convention adopted a resolution supporting legislation to establish new procedures for determining the status of missing service members. We are confident that our nation's citizens share the DAV's concern and will also fully support any measures designed to improve our ability to account for our missing-in-action.

The DAV commends you and offers its support for your efforts. Please let us know if we can be of assistance to you in this matter.

Sincerely,

DONALD A. SIOSS,  
National Commander.

VIETNOW,  
Rockford, IL, December 23, 1994.

Senator ROBERT DOLE,  
Hart Senate Office Building, Washington, D.C.

DEAR SENATOR DOLE: We, as Veterans of the Armed Forces of the United States of America, realize the importance and the immediate need for "The Missing Service Personnel Act", which is long over due.

The practice of changing the classification of those listed as Prisoner of War or Missing In Action to Killed In Action based on the presumption of death, due solely to the passage of time, is an outrage! In the proposed "Missing Service Personnel Act", "conclusive proof of death" is required to be established and based upon evidence that death is the only plausible explanation for the absence of the missing person.

Important provisions of this legislation, are the inclusion of family members in the review process, their access to information gained during the investigation and a set time frame for the review process.

Passage of the "Missing Service Personnel Act" is vital and will restore a sense of confidence not only to those effected by previous wars, but to those who may become Prisoner Of War or listed as Missing In Action as a result of future wars.

Senator Dole, we thank you for your past efforts and strongly support and encourage you to reintroduce the "Missing Service Personnel Act" as one of the first items to be introduced before the 104th Congress.

Sincerely,

RICH TEAGUE,  
VietNow National POW/MIA Chairman.

NATIONAL VIETNAM VETERANS  
COALITION,  
Washington, D.C., January 3, 1995.

Hon. FRANK LAUTENBERG,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

Re: Missing Service Personnel Act.

DEAR SENATORS DOLE AND LAUTENBERG: The National Vietnam Veterans Coalition, a federation of seventy-eight (78) Vietnam veterans organizations and veterans issue groups, is pleased to support your efforts for long overdue reform of the Missing Persons Act.

The history of the law, as previously administered, has been one of arbitrary decisions based on incomplete information. The administration of the law has produced untold grief among the family members of the missing in action and has angered the Vietnam veteran community. The rote presumptive findings of death have contributed substantially to the ongoing failure of the POW/MIA bureaucracy to meaningfully resolve the issue.

The bill you are introducing provides considerable procedural protections to future

MIAs. the provisions for appointment of counsel for the MIAs interests, the counsel's access to classified information, procedures for dealing with classified information, centralization of case information in the MIAs personnel file, the ability to reopen hearings for a period of time and effective reversal of the current de facto presumption of death reflexively applied in hearings mark tremendous progress. The encouragement to combine hearings in group disappearance cases would force hearing panels to weigh the evidence in a broader context.

The opening up of the process to include the right of participation of secondary next of kin is a welcome recognition of the fact that there is more than one person in each family who cares about the fate of a missing relative.

We are proud to endorse this much needed piece of legislation.

Sincerely,

J. THOMAS BURCH, Jr.,  
Chairman.

• Mr. LAUTENBERG. Mr. President, I am pleased to again join Senator DOLE in an effort to improve the way our government treats military service members and their families by reintroducing the Missing Service Personnel Act of 1995. It is perhaps fitting that two veterans of World War II join together to sponsor this legislation. Senator DOLE and I collaborated in writing this bill in a spirit of bipartisanship. We believe there is no room for politics when it comes to how the Government treats its missing personnel.

Mr. President, The Missing Service Personnel Act of 1995 updates existing law, last written by Congress in 1942. It focuses on how the U.S. Government deals with military personnel and Federal employees who are classified as "missing in action." Our bill also makes some improvements in the way the Federal Government deals with the families of missing persons. They suffer when a loved one is missing and they deserve to have their interests protected and their needs met by their government.

Congressional interest in the issue is extensive, Mr. President. When the Senate Select Committee on POW/MIA Affairs—ably led by Senator KERRY and Senator SMITH—reported its findings to this body, it concluded there has been serious U.S. Government neglect and mismanagement in dealing with missing servicemen. That's why we're here today—we want to rid the government of neglect and mismanagement in its treatment of Americans who are missing in action.

Having served in World War II, both Senator DOLE and I know first-hand the tremendous sacrifice service men and women make when they face combat. We know the terror soldiers face when they consider the prospect of being captured. We also know the anguish our loved ones suffer when a soldier goes into harm's way.

Over the past 25 years, the credibility of the Department of Defense on MIA/POW issues has been seriously questioned. Without substantial reform of its procedures, the American people

will continue to question the credibility of DOD in future military operations. Americans expect Pentagon officials to care for our soldiers and their families. They expect DOD officials to do the right thing when a servicemember is reported missing. There should be no curtain of secrecy. There should be no perception of incompetence. There should be no unfair treatment of families.

Our uniformed men and women serve proudly in the Armed Forces on behalf of all Americans. In return for their sacrifice, American servicemembers should be able to expect fairness, honesty, and support from the Department of Defense.

Unfortunately, Mr. President, when we look at recent history concerning the treatment of families of those missing in action, we see a troubling picture. No one in Congress should be content with what has happened in the past. We have seen families become outraged by the treatment they receive from the Government. We have witnessed their disgust toward elected officials. And, we have heard their calls for more information, more interest, and more action to recover their loved ones.

Today, we have an opportunity to respond, to provide better treatment. I believe the time is right to correct the Pentagon's flawed management practices. The cold war is over. The United States is not engaged in a major war, although we still have American men and women serving faithfully around the globe. They are ready for conflict if necessary. And, I suggest to my colleagues that the Pentagon must be ready as well.

Let's take a look at the problems we face now.

Mr. President, existing U.S. law concerning how the Government deals with missing persons is over 50 years old. That law is inadequate—it deals primarily with financial aspects of missing personnel and their dependents. That law is outdated—it doesn't address new issues that have emerged over the past 25 years. And that law is incomplete—it doesn't protect missing servicemembers from bureaucratic inaction.

Perhaps most troubling is the fact that existing law does not protect the rights of missing persons. Right now, missing persons do not have counsel in Government hearings. No one represents their interests. In addition, missing persons lose due process after 1 year. They just go into administrative limbo. They stay there until someone says they're dead. No wonder so many families think Government decisions are arbitrary and capricious.

Another problem deals with access to information. Right now, hearing officers can be denied information about missing persons. In addition, hearing officers can be excluded from reviewing classified information. And further, Government officials can willfully withhold relevant information without

penalty. I believe these practices are the root cause for the curtain of secrecy that surrounds Government decisions.

The lack of specified rights for families is another problem with existing law. The Americans with the greatest stake in Government action have the least involvement in those decisions. Moreover, families have no right to appeal. No wonder many families make charges of "cover-up" and "smoke-screen." I believe we should have procedures that guarantee families of missing servicemembers honest, fair, and just treatment.

Finally, Mr. President, the old law doesn't create the opportunity for good, just decisions. Right now, officials assigned to conduct hearings may not be qualified. Further, they may have no guidance about making determinations of death. So today, what we have are poor decisions: Missing persons are pronounced dead . . . merely with the passage of time. I believe such determinations constitute disloyalty to our service men and women.

Mr. President, when you look at the problems with existing law in the aggregate, you can see why we've had so many problems over the years. Families are mad. Service men and women are wary. Government officials are frustrated. Senator DOLE and I wrote this bill to correct, once and for all, all these problems.

Unfortunately, Mr. President, when the Pentagon looks at these problems they see a rosy picture. Over the last 5 years, Pentagon officials have reported to Congress that everything is just fine. They have dragged their feet in upgrading government procedures. And despite our efforts to reform existing law, the Pentagon has not come forward with a reform proposal. Mr. President, there seems to be a general lack of will within the Pentagon to update its management procedures regarding missing persons.

In Congress today, there are several POW/MIA legislative initiative that address problems of past wars and conflicts. These initiatives attempt to resolve problems for World War II, Korea, and Vietnam. These are all worthy and should be pursued by both the Congress and the administration.

However, Mr. President, we have only one initiative that looks to the future—to the wars and conflicts not yet fought by Americans. In passing the fiscal year 1995 National Defense Authorization Act, the Senate took the first step in establishing new procedures for the future. In that legislation, we required the Department of Defense to review its procedures and recommend changes to Congress.

I remain skeptical about the Pentagon's response. I haven't seen any enthusiasm to update their procedures. Those in Congress who have dealt with these problems have seen little Pentagon interest in reform. Indeed, last year, an Assistant Secretary of Defense

wrote to us with regard to the Pentagon's procedures . . . and I quote:

I believe that the existing legislation provides adequate protections and venues for participation of all parties with legitimate interest.

Now Mr. President, I ask my colleagues: What should we expect from a Pentagon review of existing legislation? Does anyone in this body believe the Pentagon will come forward with reform legislation? I will tell you I am very skeptical.

This is why we are reintroducing this bill today. I want to lay on the table a proposal with real reform. I want the Pentagon to know that this Senator does not believe existing procedures are adequate. And I suggest the Senate needs to take the lead on this critical issue.

Mr. President, when we wrote this legislation, Senator DOLE and I took a new approach. We asked a simple question: How would a missing soldier want the U.S. Government to respond to his or her situation? What would a missing person want from his government? We wrote this bill from the point of view of American service men and women. When we finished, we had created wholly new procedures—procedures that, for the first time, are designed to serve those who are missing in action.

This legislation accomplishes four goals. First, it corrects management deficiencies for dealing with missing service members. Second, the bill safeguards the rights of missing personnel. Third, our legislation reestablishes a sense of trust between the U.S. Government and the families of missing personnel by raising what many people consider to be a "curtain of secrecy" surrounding Government decisions. And finally, Mr. President, our bill assures fundamental fairness to missing servicemembers by requiring timely Government action and specifying the rights of families and the Government's obligations to them. We hope that families of missing persons are treated fairly in all proceedings.

Let me discuss some of the provisions we are proposing in more detail.

First, the Act will establish new procedures for determining the whereabouts and status of missing persons. These procedures accelerate official action in order to recover the missing. They may even lead to the recovery of some servicemembers.

Moreover, the new procedures will afford missing persons due process well after the first year of their disappearance. Our service men and women should never believe that our Government will abandon them if captured. This legislation guarantees that the Government won't write them off merely with the passage of time.

The second important provision of the Act is that qualified counsel will be appointed for missing persons. This is new. Never before have missing persons been represented by counsel. Our service personnel should not have to worry about their rights, even if they are

missing in action. This legislation assures that the Government does not ignore issues and evidence. It assures that the Government affords the missing in action due process of the law.

Third, the act will assure access to Government information. It removes the "curtain of secrecy." It makes all information available to hearing officers. Also, the bill carefully provides access to classified information. And, it makes complete personnel files available for review. These measures guarantee that the Government doesn't make ill-formed decisions about the statute of missing personnel.

The act also specifies the rights of the missing person's immediate family, dependents and next of kin. It ensures that our field commanders will give families updated, accurate information concerning the incident in which their loved one disappeared. The bill assures family participation in Government hearings. They will have access to the personnel file of the missing. They can be represented by private counsel. They can object in writing to a board's recommendations. And last, but not least, they can appeal a Government ruling. These are the basic rights of families—and no one can argue with putting them into law.

The last major provision of the act states criteria for making just decisions about the status of missing servicemembers. It gives guidance to officials about that factors they must consider before making a determination of death. The bill specifically prohibits declaring someone to be dead merely by virtue of the passage of time. I believe these provisions are important as an expression of Government loyalty to all persons who serve in the Armed Forces.

Mr. President, let me close by saying that there remains a strong bipartisan consensus across America in support of this bill. It has been building over the last 3 years. It started partly as a grassroots initiative from New Jersey and elsewhere. And it continues to enjoy the support of several major veterans organizations across the United States.

Mr. President, the good intentions of many Americans, who truly care about the welfare of the men and women in the Armed Services, have been combined into this initiative. They believe it is the right thing to do.

I urge my colleagues to join Senator DOLE and me in supporting this reform legislation when it is considered by the Senate.●

● Mr. LIEBERMAN. Mr. President, I am pleased to be an original cosponsor to the Missing Service Personnel Act of 1995 as I was when this legislation was first introduced in the 103d Congress. I commend the distinguished majority leader for his leadership on this issue and am proud to join him, Senator SIMPSON, and Senator LAUTENBERG in this important effort. This legislation is long overdue and is an important step toward providing the men and

women who have served and will serve in our Armed Forces in conflict the protection and rights they and their families deserve, and we as a country owe them.

The current law which governs personnel who became missing in action was written in 1942 in the midst of World War II. We have now had over 50 years of experience with that law and the procedures it established to determine the status of people who became missing, captured, or presumed killed in a conflict. The experiences of MIA's and their families during and long after the Vietnam war provides clear evidence that the existing law is inadequate and revisions are sorely needed.

American citizens in uniform and in civilian clothes are serving our national interests in hostile places around the world even as we speak today. The end of the cold war has not brought an end to the valid need for Americans to serve abroad and sometimes to be placed in harm's way. The legislation we introduce today is an effort to address the legitimate concerns and needs of the men and women and their families who may one day find themselves missing in action because of their service to their country.

This legislation recognizes that a man who becomes missing in action does not surrender their legitimate rights as an American and that we must do everything we can to determine their true status. They will not break faith with America and America must not break faith with them or their families. Thus, the legislation prevents presuming that a missing service man or woman is dead simply because of the passage of time. It places a greater burden on the Government which commits our sons and daughters to conflict to persist in determining the truth about every one of those who became missing. Some may argue that this burden is too great. The mothers and fathers, husbands and wives, sons and daughters of those who are missing will reply that this is not too great a burden to bear for those who have answered the call of their country.

I hope and expect that this legislation will be given a thorough and fair examination both in committee and when it comes to the floor for passage. It is already supported by many veterans groups and organizations of families of the missing in action from the Vietnam war. Those in the Department of Defense who will have to implement this legislation should provide us their counsel on ways to improve it and to make it more effective. We welcome such constructive efforts. But let there be no mistake about our intentions or goals—the clock cannot be turned back. We cannot just tinker at the margins with policies and procedures which have failed in the past to live up to the covenant which must exist between the Government and those it sends off to defend its national interest.

We must never forget those who have served, are serving, or will serve their country. We owe it to them and their loved ones to commit ourselves to a full accounting of all who become missing in action. This legislation is an important step in the direction of returning faith and trust in this important covenant. I invite my colleagues to join us in cosponsoring this legislation and to work for its speedy enactment.●

By Mr. DOLE (for himself, Mr. INOUE, Mr. THURMOND, Mr. WARNER, Mr. MCCAIN, and Mr. CAMPBELL):

S. 257. A bill to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea; to the Committee on the Judiciary.

#### THE VFW CHARTER LEGISLATION

Mr. DOLE. Mr. President, as a life member of the Veterans of Foreign Wars of the United States, I am particularly honored today to introduce legislation which will amend the congressional charter of the VFW to make those veterans who have served in South Korea eligible for membership.

Since the 1953 armistice, the 170-mile demilitarized zone [DMZ] which separates North and South Korea has been the source of extreme and serious tension. According to the VFW, 89 Americans have been killed and 132 wounded in clashes with North Korea since the armistice was signed.

Across this no-mans-land, North Korea has maintained 70 percent of its 1.2-million-man armed forces. Those forces are in forward deployed attack positions along the entire DMZ, only 30 miles from the South Korean capital of Seoul.

Since the end of the Korean war, the United States has pledged to the Republic of Korea to deter any renewal of the conflict. To fulfill our commitment, we have positioned a 37,000-man force consisting of the U.S. 8th Army, including the 2d Infantry Division and the Air Force's 314th Air Division. The record and performance of our military men and women during the past four decades in meeting that commitment, and in spite of constant danger, has been exemplary.

I wish to commend the leadership of this great veterans service organization, the Veterans of Foreign Wars, for their recognition of those members of our Armed Forces who have served in Korea since 1949. I am honored to introduce this legislation and provide my full support for its consideration and quick passage by my colleagues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

#### S. 257

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act*

of May 28, 1936 (36 U.S.C. 115), is amended to read as follows:

"SEC. 5. A person may not be a member of the corporation created by this Act unless that person—

"(1) served honorably as a member of the Armed Forces of the United States in a foreign war, insurrection, or expedition, which service has been recognized as campaign-medal service and is governed by the authorization of the award of a campaign badge by the Government of the United States; or

"(2) while a member of the Armed Forces of the United States, served honorably on the Korean peninsula or in its territorial waters for not less than 30 consecutive days, or a total of 60 days, after June 30, 1949."

#### ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 32

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 32, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for the production of oil and gas from existing marginal oil and gas wells and from new oil and gas wells.

S. 33

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 33, a bill to amend the Oil Pollution Act of 1990 to clarify the financial responsibility requirements for offshore facilities.

S. 159

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 159, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to individual investment accounts, and for other purposes.

S. 234

At the request of Mr. CAMPBELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 234, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety laws, and for other purposes.

AMENDMENT NO. 179

At the request of Mr. DORGAN the names of the Senator from Connecticut [Mr. DODD] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of amendment No. 179 intended to be proposed to S. 1, a bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership

between the Federal Government and State, local, and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

#### SENATE RESOLUTION 65—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. THURMOND, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 65

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel; and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1995, through February 29, 1996, under this resolution shall not exceed \$2,948,079.

(b) For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed \$3,015,532.

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through

February 29, 1996, and March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

#### SENATE RESOLUTION 66—TO PREVENT THE ADOPTION OF CERTAIN NATIONAL HISTORY STANDARDS

Mr. PRESSLER (for Mr. GORTON, for himself, Mr. LIEBERMAN, Mr. GRAMM, and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 66

*Resolved*, That it is the sense of the Senate that—(a) the National Education Goals Panel should disapprove, and the National Education Standards and Improvement Council should not certify, any voluntary national content standards, voluntary national student performance standards, or criteria for the certification of such content and student performance standards, on the subject of world and United States history, developed prior to February 1, 1995;

(b) voluntary national content standards, voluntary national student performance standards, and criteria for the certification of such content and student performance standards, on the subject of world and United States history, established under title II of the Goals 2000: Educate America Act should not be based on standards developed primarily by the National Center for History in the Schools prior to February 1, 1995; and

(c) if the Department of Education, the National Endowment for the Humanities, or any other Federal agency provides funds for the development of the standards and criteria described in paragraph (b), the recipient of such funds should have a decent respect for the contributions of western civilization, and United States history, ideas, and institutions, to the increase of freedom and prosperity around the world.

#### SENATE RESOLUTION 67—RELATING TO REPRODUCTIVE HEALTH CLINICS

Mr. PRESSLER (for Mrs. BOXER, for herself, Mrs. MURRAY, Mr. FEINGOLD, Mr. KENNEDY, Mr. CAMPBELL, Mr. SIMON, Mr. LAUTENBERG, Mr. DODD, Mr. BAUCUS, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. PELL, Mr. INOUE, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. REID, Mr. WELLSTONE, Mr. ROBB, Mr. KOHL, Mr. BRYAN, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 67

#### SENSE OF THE SENATE CONCERNING PROTECTION OF REPRODUCTIVE HEALTH CLINICS.

Whereas there are approximately 900 clinics in the United States providing reproductive health services;

Whereas violence directed at persons seeking to provide reproductive health services continues to increase in the United States, as demonstrated by the recent shootings at two reproductive health clinics in Massachusetts and another health care clinic in Virginia;

Whereas organizations monitoring clinic violence have recorded over 130 incidents of violence or harassment directed at reproductive health care clinics and their personnel