

addition to, not a replacement for, the annual appropriations amount designated for CVM through the annual appropriations process.

This legislation enjoys broad support from pharmaceutical, livestock and poultry producers and from the American Veterinary Medical Association, the Animal Health Institute, the National Pork Producers Association, the National Turkey Federation, the National Cattlemen's Beef Association, the National Milk Producers Federation, and the American Farm Bureau Federation.

I urge my colleagues to support this important legislation.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3917. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 3918. Mr. KENNEDY (for himself, Mr. REED, Mr. AKAKA, Mr. FEINGOLD, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3919. Mr. THOMAS (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3920. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3921. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3922. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3923. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3924. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3925. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3926. Mr. WYDEN (for himself and Mr. SMITH, of Oregon) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3927. Mrs. MURRAY (for herself and Ms. SNOWE) proposed an amendment to the bill S. 2514, supra.

SA 3928. Mrs. HUTCHISON (for herself, Mr. BINGAMAN, Mr. LOTT, Mr. STEVENS, Mr. INOUE, Mr. BUNNING, Mrs. FEINSTEIN, Mr. CRAIG, Ms. COLLINS, Mr. SHELBY, Mr. SMITH, of New Hampshire, Mr. BOND, Mr. DOMENICI, Mr. BAYH, Mr. NELSON, of Nebraska, Mr. BURNS, and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3929. Mr. KERRY submitted an amendment intended to be proposed by him to the

bill S. 2514, supra; which was ordered to lie on the table.

SA 3930. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3931. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3932. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3933. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3934. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3935. Mr. NELSON, of Florida (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3936. Mr. NELSON, of Florida (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3937. Mr. NELSON, of Florida (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3938. Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, supra.

SA 3939. Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, supra.

SA 3940. Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, supra.

SA 3941. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 2514, supra.

SA 3942. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3943. Mr. WARNER (for Ms. COLLINS) proposed an amendment to the bill S. 2514, supra.

SA 3944. Mr. LEVIN (for Ms. LANDRIEU) proposed an amendment to the bill S. 2514, supra.

SA 3945. Mr. WARNER (for Mr. GRASSLEY (for himself, Mr. HARKIN, Mrs. CLINTON, Mr. SCHUMER, Mr. DURBIN, Mr. FITZGERALD, and Mrs. LINCOLN)) proposed an amendment to the bill S. 2514, supra.

SA 3946. Mr. LEVIN (for Mr. CLELAND (for himself and Mr. HUTCHINSON)) proposed an amendment to the bill S. 2514, supra.

SA 3947. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3948. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3949. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3950. Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, supra.

SA 3951. Mr. LEVIN (for himself and Mr. SESSIONS) proposed an amendment to the bill S. 2514, supra.

#### TEXT OF AMENDMENTS

SA 3917. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize

appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XXVIII, add the following:

#### SEC. 2829. LAND CONVEYANCE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Veterans Land Board of the State of Texas (in this section referred to as the "Board"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 174 acres at Fort Hood, Texas, for the purpose of permitting the Board to establish a State-run cemetery for veterans.

(b) REVERSIONARY INTEREST.—(1) If at the end of the five-year period beginning on the date of the conveyance authorized by subsection (a), the Secretary determines that the property conveyed under that subsection is not being used for the purpose specified in that subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SA 3918. Mr. KENNEDY (for himself, Mr. REED, Mr. AKAKA, Mr. FEINGOLD, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

#### At the end of division A, add the following: TITLE XIII—EQUAL COMPETITION IN CONTRACTING

#### SEC. 1301. RELATION TO DEPARTMENT EFFORTS TO ACHIEVE MOST EFFICIENT ORGANIZATION FOR PERFORMANCE OF COMMERCIAL OR INDUSTRIAL FUNCTIONS.

Nothing in this title is intended to limit the ability of Secretary of Defense or the Secretary of a military department to promote efficiencies in the civilian workforce of the Department of Defense through reductions in force, internal reorganization, or streamlining efforts.

#### SEC. 1302. REQUIRED COST SAVINGS LEVEL FOR CHANGE OF FUNCTION TO CONTRACTOR PERFORMANCE.

Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

“(5)(A) A commercial or industrial type function of the Department of Defense may not be changed to performance by the private sector unless, as a result of the cost comparison examination required under paragraph (3)(A) that meets the requirements of subparagraph (B), at least a 10-percent cost savings would be achieved by performance of the function by the private sector over the period of the contract.

“(B) The cost comparison examination required under paragraph (3)(A) shall employ the most efficient organization process, the framework for calculating the public sector price cost estimate, and the framework for calculating the evaluated price for private sector proposals to take into account costs such as contract administration costs, as described in Office of Management and Budget Circular A-76 or any successor regulation.

“(C) The cost savings requirement specified in subparagraph (A) does not apply to any contract for the following:

- “(i) Special studies and analyses.
- “(ii) Construction services.
- “(iii) Architectural services.
- “(iv) Engineering services.
- “(v) Medical services.
- “(vi) Scientific and technical services related to (but not in support of) research and development.
- “(vii) Depot-level maintenance and repair services.

“(viii) Services performed for any laboratory that is owned or operated by the Department of Defense and is funded exclusively through working-capital funds.

“(ix) Services related to the design and installation of information technology (which does not include services related to the management, operation, and maintenance of information technology).

“(D) The Secretary of Defense may waive the cost savings requirement if—

“(i) the written waiver is prepared by the Secretary of Defense, or an Assistant Secretary of Defense or head of an agency of the Department of Defense authorized by the Secretary to do so; and

“(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a cost comparison examination.

“(E) A copy of the waiver under subparagraph (D) shall be published in the Federal Register, although use of the waiver is not contingent on its publication.

“(6) The reference to Office of Management and Budget Circular A-76 in paragraph (5)(B) does not require the use of the process described in that circular to perform the cost comparison required by this subsection.”.

#### **SEC. 1303. APPLICABILITY OF STUDY AND REPORTING REQUIREMENTS TO NEW COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS.**

(a) NEW FUNCTIONS.—Section 2461(a) of title 10, United States Code, is amended—

(1) by striking “CHANGE IN PERFORMANCE.” and inserting “CHANGE IN OR INITIATION OF PERFORMANCE.—(1)”;

(2) by adding at the end the following new paragraphs:

“(2) In the case of a commercial or industrial type function of the Department of Defense not previously performed by Department of Defense civilian employees or a contractor, the performance of the function by a private sector source may not be initiated until—

“(A) the Secretary of Defense conducts a cost comparison examination that employs the most efficient organization process, the framework for calculating the public sector price cost estimate, and the framework for calculating the evaluated price for private sector proposals to take into account costs

such as contract administration costs, as described in Office of Management and Budget Circular A-76 and its supplemental handbook, or any successor regulation and policy; and

“(B) a determination is made that performance of the function by the private sector source would be less costly over the period of the contract than performance by Department of Defense civilian employees during that same period.

“(3) This subsection does not apply to the following contracts:

“(A) A contract between the Department of Defense and a private sector source for work with a contract value of less than \$1,000,000, for so long as the work was not divided, modified, or in any way changed for the purpose of avoiding the requirements of this section.

“(B) A contract for any of the following:

- “(i) Special studies and analyses.
- “(ii) Construction services.
- “(iii) Architectural services.
- “(iv) Engineering services.
- “(v) Medical services.
- “(vi) Scientific and technical services related to (but not in support of) research and development.
- “(vii) Depot-level maintenance and repair services.

“(viii) Services performed for any laboratory that is owned or operated by the Department of Defense and is funded exclusively through working-capital funds.

“(ix) Services related to the design and installation of information technology (which does not include services related to the management, operation, and maintenance of information technology).

“(4) The Secretary of Defense may waive the applicability of this subsection if—

“(A) the written waiver is prepared by the Secretary of Defense, or an Assistant Secretary of Defense or head of an agency of the Department of Defense authorized by the Secretary to do so; and

“(B) the written waiver is accompanied by a detailed determination that—

“(i) there is no reasonable expectation that civilian employees would be selected to perform the function in a competition between public sector sources and private sector sources; or

“(ii) the immediate performance of the function by Department of Defense civilian employees or a contractor is so urgent that it overrides the compelling interest of subjecting new commercial or industrial type functions to public-private sector competition before converting the performance of those functions to private sector performance.

“(5) A copy of the waiver under paragraph (4) shall be published in the Federal Register, although use of the waiver is not contingent on its publication.

“(6) The reference to Office of Management and Budget Circular A-76 in paragraph (2)(A) does not require the use of the process described in that circular to perform the cost comparison required by this subsection.”.

(b) MINIMAL LEVELS OF PUBLIC-PRIVATE COMPETITION FOR NEW WORK.—(1) Not less than the percentage specified in paragraph (2) of the total dollars expended during a specified fiscal year for the performance by contractors of commercial or industrial type functions of the Department of Defense not previously performed by Department of Defense civilian employees or the private sector (that are not otherwise exempt from comparison under section 2461 of title 10, United States Code) shall be expended for service contracts that are awarded after the completion of cost comparison examinations.

(2) The requirements of paragraph (1) apply as follows:

(A) Not less than 10 percent, for fiscal year 2004.

(B) Not less than 15 percent, for fiscal year 2005.

(C) Not less than 20 percent, for fiscal year 2006.

(3) The Secretary of Defense may waive the requirements of this subsection if—

(A) the written waiver is prepared by the Secretary of Defense, or an Assistant Secretary of Defense or head of an agency of the Department of Defense authorized by the Secretary to do so; and

(B) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirements.

(4) A copy of the waiver under paragraph (2) shall be published in the Federal Register, although use of the waiver is not contingent on its publication.

(c) CLERICAL AMENDMENTS.—(1) The heading of such section 2461 is amended to read as follows:

**“§ 2461. Commercial or industrial type functions: required studies and reports before conversion to, or initiation of, contractor or civilian employee performance.”.**

(2) The item relating to such section in the table of sections at the beginning of chapter 146 of title 10, United States Code, is amended to read as follows:

“2461. Commercial or industrial type functions: required studies and reports before conversion to, or initiation of, contractor or civilian employee performance.”.

#### **SEC. 1304. REPEAL OF WAIVER FOR SMALL FUNCTIONS.**

Section 2461 of title 10, United States Code, is amended by striking subsection (d).

#### **SEC. 1305. REQUIREMENT FOR EQUITY IN PUBLIC-PRIVATE COMPETITIONS.**

Section 2461 of title 10, United States Code, is amended by inserting after subsection (c) the following new subsection:

“(d) EQUITY IN PUBLIC-PRIVATE COMPETITION.—(1)(A) For any fiscal year in which commercial or industrial type functions of the Department of Defense performed by Department of Defense civilian employees are studied for possible change to private sector performance, the Secretary of Defense shall ensure that approximately the same number of positions held by non-Federal employees under contracts with the Department of Defense, subject to completion of the terms of those contracts, are subjected to—

“(i) the same cost comparison examination described in subsection (b)(3) that employed the most efficient organization process, the framework for calculating the public sector price cost estimate, and the framework for calculating the evaluated price for private sector proposals to take into account costs such as contract administration costs, as described in Office of Management and Budget Circular A-76 or any successor regulation, and

“(ii) the requirement that no work may be changed to performance by the public sector unless at least a 10-percent cost savings would be achieved by performance of the function by the public sector over the term of the contract.

“(B) The cost savings requirement specified in subparagraph (A)(ii) does not apply to any contract for the following:

- “(i) Special studies and analyses.
- “(ii) Construction services.
- “(iii) Architectural services.
- “(iv) Engineering services.
- “(v) Medical services.
- “(vi) Scientific and technical services related to (but not in support of) research and development.
- “(vii) Depot-level maintenance and repair services.

“(viii) Services performed for any laboratory that is owned or operated by the Department of Defense and is funded exclusively through working-capital funds.

“(ix) Services related to the design and installation of information technology (which does not include services related to the management, operation, and maintenance of information technology).

“(2) To the extent possible, the Secretary of Defense should, in complying with this subsection, select those contract positions held by non-Federal employees under contracts with the Department of Defense that are associated with commercial or industrial type functions that are, or have been, performed at least in part by Department of Defense civilian employees at any time on or after October 1, 1980.

“(3) Notwithstanding any limitation on the number of Department of Defense civilian employees established by law, regulation, or policy, the Department of Defense may continue to employ, or may hire, such civilian employees as are necessary to perform functions acquired through the public-private competitions required by this subsection or any other provision of this section.

“(4) The requirement to perform cost comparison examinations under this subsection does not require the use of the process described in Office of Management and Budget Circular A-76 in the performance of the examinations.

“(5) The Secretary of Defense may waive the requirements of this subsection if—

“(A) the written waiver is prepared by the Secretary of Defense, or an Assistant Secretary of Defense or head of an agency of the Department of Defense authorized by the Secretary to do so; and

“(B) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirements.

“(6) A copy of the waiver under paragraph (5) shall be published in the Federal Register, although use of the waiver is not contingent on its publication.

#### **SEC. 1306. REPORTING REQUIREMENTS REGARDING DEPARTMENT OF DEFENSE'S SERVICE CONTRACTOR WORKFORCE.**

(a) IMPOSITION OF REPORTING REQUIREMENT.—(1) Chapter 146 of title 10, United States Code, is amended by inserting after section 2461a the following new section:

##### **“§2461b. Use of private sector to perform commercial or industrial type function: contractor reporting requirements**

“(a) DEFINITIONS.—In this section:

“(1) CONTRACTOR.—The term ‘contractor’ includes a subcontractor.

“(2) SECRETARY CONCERNED.—The term ‘Secretary concerned’ includes the Secretary of Defense with respect to matters concerning a Defense Agency.

“(b) GENERAL REPORTING REQUIREMENT.—The Secretary concerned shall require each defense contractor to report to secure websites established and maintained by the Defense Agencies and military departments the same contractor direct manhour and cost information that is collected by the Department of the Army pursuant to part 668 of title 32, Code of Federal Regulations, as in effect on December 26, 2000, in terms of functions performed, appropriations funding the contract, and identification of the subordinate organizational elements within the Defense Agency or military department directly overseeing the contractor performance.

“(c) ASSIGNMENT OF REPORTING RESPONSIBILITY.—The head of the Defense Agency or Secretary of the military department containing the major organizational element re-

ceiving or reviewing the work performed by a defense contractor shall be responsible for collecting the data required by this section, even where all or part of the contracted work is funded by appropriations not controlled by the Secretary concerned. If the Defense Agency or military department containing the major organizational element receiving or reviewing the work performed by the contractor is different from the Defense Agency or military department containing the contracting activity, the Secretary concerned shall ensure that the contractor reports the required information to the Defense Agency or military department containing the major organizational element receiving or reviewing the work performed by the contractor.

“(d) TIMING OF CONTRACTOR REPORTING TO ASSURE DATA QUALITY.—The Secretary concerned shall require contractors to report the information described in subsection (c) to the secure web-site contemporaneous with submission of a request for payment (including any voucher, invoice, or request for progress payment) or not later than quarterly.

“(e) CONTRACT REQUIREMENT EFFECTIVE DATE.—The Secretary concerned shall include the reporting requirement described in this section in each solicitation of offers issued, contract awarded, and bilateral modification of an existing contract executed by the Secretary concerned after October 1, 2002.

“(f) CONTRACTOR SELF-EXEMPTION.—The Secretary concerned shall exempt a contractor from the data collection requirement imposed by this section if the contractor certifies in writing that the contractor does not have an internal system for aggregating billable hours in the direct or indirect pools, or an internal payroll accounting system, and is not otherwise required to provide such information to the Government. A contractor may not claim an exemption on the sole basis that the contractor is a foreign contractor, that services are provided pursuant to a firm, fixed price or time and materials contract or similar instrument, that the payroll system of the contractor is performed by another person, or that the contractor has too many subcontractors. The validity of this certification is the only requirement in this section that may be subject to audit and verification by the Secretary concerned.

“(g) REPORT TO CONGRESS AND COMPTROLLER GENERAL ACTIONS.—The Secretary concerned shall submit the information collected under subsection (c) to Congress not later than October 1 of each year for the prior fiscal year. Not later than April 1 of each year, the Comptroller General shall review the information submitted for the prior fiscal year to assess compliance with this section and the effectiveness of Department of Defense initiatives to integrate this information into its budgeting process.

“(h) PUBLICATION OF REPORTS.—After completion of the Comptroller General review under subsection (h), the Secretary concerned shall take steps to make the non-proprietary compilations of the data public on web sites, using the publication standard expressed by the Department of the Army in part 668 of title 32, Code of Federal Regulations.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2461a the following new item:

“2461b. Use of private sector to perform commercial or industrial type function: contractor reporting requirements.”

(b) EFFECTIVE DATE.—Section 2461b of title 10, United States Code, as added by sub-

section (a), shall take effect on October 1, 2002.

#### **SEC. 1307. COMPTROLLER GENERAL REPORTS.**

The Comptroller General shall report to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate biannually on the compliance by the Department of Defense with the requirements in sections 1301, 1302, 1303, 1304, 1305, and 1306 of this Act and the amendments made by such sections.

#### **SEC. 1308. LIMITED PILOT PROGRAM TO IMPLEMENT RECOMMENDATIONS OF COMMERCIAL ACTIVITIES PANEL.**

(a) USE OF ALTERNATIVE PUBLIC-PRIVATE COMPETITION PROCESSES.—Notwithstanding sections 2461 and 2462 of title 10, United States Code, the Secretary of Defense may carry out a limited pilot program to examine and evaluate the feasibility and advisability of using public-private competition processes other than the process described in Office of Management and Budget Circular A-76 for commercial or industrial type functions performed by Federal employees, performed by contractors, or proposed for performance by Federal employees or contractors.

(b) DURATION OF PILOT PROGRAM.—The Secretary of Defense may carry out the limited pilot program during fiscal years 2003 through 2005.

(c) EXTENT OF PILOT PROGRAM.—The total value of the commercial or industrial type functions reviewed under the pilot program may not exceed \$300,000,000.

(d) POSSIBLE ALTERNATIVES.—(1) The alternatives to Office of Management Budget Circular A-76 that could be tested and evaluated by the pilot program include the following:

(A) The process known as low-price/technically acceptable (under the framework of the Federal Acquisition Regulation).

(B) The process known as cost/technical trade-off (under the framework of the Federal Acquisition Regulation).

(C) The process known as bid-to-goal.

(2) In paragraph (1)(C), the term “bid-to-goal” means a process that—

(A) uses a series of competitive performance targets, included in a performance work statement, to compare for specific functions the cost of public sector performance with that of performance by private sector contractors and other public sector entities at the Federal, State, and local levels; and

(B) allows managers and affected employees to create streamlined and improved work plans that, if determined to be viable by an independent party, are incorporated into detailed service agreement awarded to the public sector entity for implementation and performance of the functions.

(e) REQUIRED ELEMENTS.—The alternatives examined and evaluated under the framework of the Federal Acquisition Regulation shall include the most efficient organization process, the framework for calculating the public sector price cost estimate, the framework for calculating the evaluated price for private sector proposals to take into account costs such as contract administration costs, and the 10 percent cost differential in favor of whichever sector is currently performing the work, as described in Office of Management and Budget Circular A-76 or any successor administrative regulation.

(f) COMPARABILITY.—To the maximum extent practicable, the Secretary of Defense shall ensure that comparable amounts of work, as measured in dollars, performed by Federal employees, performed by contractors, or new work that is not yet performed by Federal employees or contractors should be tested and evaluated under the alternatives authorized for the pilot program.

(g) EXCLUSION OF CERTAIN FUNCTIONS.—Under the pilot program, the Secretary of

Defense may not use the alternative public-private competition processes to review depot-level maintenance and repair workloads, functions for which contracts for performance by the private sector are prohibited, or inherently governmental activities.

(h) **RELATION TO A-76 PROCESS.**—In order to provide proper test and evaluation conditions for the pilot program, functions designated for study under the pilot program shall be exempt for the duration of the pilot program from review initiated under Office of Management and Budget Circular A-76 or any successor administrative regulation, and no function that has been announced for or is undergoing such a review shall be selected for the pilot program.

(i) **CONSULTATION.**—(1) The officer or employee of the Department of Defense responsible for determining under the alternatives authorized by the pilot program whether to convert a commercial or industrial type function of the Department of Defense from Federal employee performance to contractor performance or from contractor performance to Federal employee performance—

(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with Federal or contractor employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

(B) may consult with such employees or contractors on other matters relating to that determination.

(2) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, United States Code, consultation with representatives of that labor organization shall satisfy the consultation requirements of paragraph (1).

(3) In the case of employees other than employees referred to in paragraph (2), consultation with appropriate representatives of those employees (including appropriate labor organizations representing such employees) shall satisfy the consultation requirements of paragraph (1).

(j) **REPORTING REQUIREMENTS.**—(1) Not later than 90 days after the end of each fiscal year during which the pilot program is conducted, the Secretary of Defense and the Comptroller General shall each submit to Congress a report of the results of the pilot program and lessons learned. For each commercial or industrial type function covered by the program, the report shall address the following:

(A) The cost of conducting the alternative.

(B) The time necessary to conduct the alternative.

(C) The savings, if any, expected to be achieved from conducting the alternative.

(D) The savings, if any, actually achieved from conducting the alternative.

(E) The gains in efficiency or effectiveness, if any, expected to be achieved from conducting the alternative.

(F) The gains in efficiency or effectiveness, if any, actually achieved from conducting the alternative.

(G) The impact on Federal employees and contractors (and contractor employees) from conducting the alternative.

(2) To the maximum extent possible, the report shall compare each alternative undertaking, with respect to the factors specified in paragraph (1), with an undertaking of Office of Management and Budget Circular A-76 that has been completed within at least two years prior to the date of the enactment of this Act for work that is comparable in nature and scope.

(3) The final report shall include recommended changes with respect to imple-

mentation of policies and proposed legislation.

(k) **REGULATIONS.**—The Secretary of Defense shall prescribe such regulations as the Secretary considers necessary to carry out the pilot program.

**SA 3919.** Mr. THOMAS (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VIII, add the following:

**SEC. 828. COMPETITION FOR PERFORMANCE OF ACTIVITIES NOT INHERENTLY GOVERNMENTAL.**

(a) **REQUIREMENT.**—Section 2(d) of the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 112 Stat. 2383; 31 U.S.C. 501 note) is amended by striking “on the list” at the end of the first sentence and all that follows through “the performance of such an activity, the” in the second sentence and inserting “on the list and initiate an action to select the source for the performance of each such activity. The”.

(b) **EFFECTIVE DATE AND APPLICABILITY.**—The amendment made by subsection (a) shall take effect on October 1, 2002, and shall apply with respect to lists of activities that are submitted to the Office of Management and Budget after that date under section 2 of the Federal Activities Inventory Reform Act of 1998.

**SA 3920.** Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

**TITLE XIII—FREEDOM FROM GOVERNMENT COMPETITION**

**SEC. 1301. SHORT TITLE.**

This title may be cited as the “Freedom From Government Competition Act of 2002”.

**SEC. 1302. FINDINGS.**

Congress makes the following findings:

(1) Private sector business concerns, which are free to respond to the private or public demands of the marketplace, constitute the strength of the American economic system.

(2) Competitive private sector enterprises are the most productive, efficient, and effective sources of goods and services.

(3) Government competition with the private sector of the economy is detrimental to all businesses and the American economic system.

(4) Government competition with the private sector of the economy is at an unacceptably high level, both in scope and in dollar volume.

(5) When a government engages in entrepreneurial activities that are beyond its core mission and compete with the private sector—

(A) the focus and attention of the government are diverted from executing the basic mission and work of that government; and

(B) those activities constitute unfair government competition with the private sector.

(6) Current laws and policies have failed to address adequately the problem of government competition with the private sector of the economy.

(7) The level of government competition with the private sector, especially with small businesses, has been a priority issue of each White House Conference on Small Business.

(8) Reliance on the private sector is consistent with the goals of the Government Performance and Results Act of 1993 (Public Law 103-62).

(9) Reliance on the private sector is necessary and desirable for proper implementation of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226).

(10) It is in the public interest that the Federal Government establish a consistent policy to rely on the private sector of the economy to provide goods and services that are necessary for or beneficial to the operation and management of Federal Government agencies and to avoid Federal Government competition with the private sector of the economy.

(11) It is in the public interest for the private sector to utilize employees who are adversely affected by conversions to use of private sector entities for providing goods and services on behalf of the Federal Government.

**SEC. 1303. RELIANCE ON THE PRIVATE SECTOR.**

(a) **GENERAL POLICY.**—Notwithstanding any other provision of law, except as provided in subsection (c), each agency shall procure from sources in the private sector all goods and services that are necessary for or beneficial to the accomplishment of authorized functions of the agency.

(b) **PROHIBITIONS REGARDING TRANSACTIONS IN GOODS AND SERVICES.**—

(1) **PROVISION BY GOVERNMENT GENERALLY.**—No agency may begin or carry out any activity to provide any products or services that can be provided by the private sector.

(2) **TRANSACTIONS BETWEEN GOVERNMENTAL ENTITIES.**—No agency may obtain any goods or services from or provide any goods or services to any other governmental entity.

(c) **EXCEPTIONS.**—Subsections (a) and (b) do not apply to goods or services necessary for or beneficial to the accomplishment of authorized functions of an agency under the following conditions:

(1) Either—

(A) the goods or services are inherently governmental in nature within the meaning of section 1306(b); or

(B) the Director of the Office of Management and Budget determines that the provision of the goods or services is otherwise an inherently governmental function.

(2) The head of the agency determines that the goods or services should be produced, provided, or manufactured by the Federal Government for reasons of national security.

(3) The Federal Government is determined to be the best value source of the goods or services in accordance with regulations prescribed pursuant to section 1304(a)(2)(C).

(4) The private sector sources of the goods or services, or the practices of such sources, are not adequate to satisfy the agency's requirements.

**SEC. 1304. ADMINISTRATIVE PROVISIONS.**

(a) **REGULATIONS.**—

(1) **OMB RESPONSIBILITY.**—The Director of the Office of Management and Budget shall prescribe regulations to carry out this title.

## (2) CONTENT.—

(A) PRIVATE SECTOR PREFERENCE.—Consistent with the policy and prohibitions set forth in section 1303, the regulations shall emphasize a preference for the provision of goods and services by private sector sources.

(B) FAIRNESS FOR FEDERAL EMPLOYEES.—In order to ensure the fair treatment of Federal Government employees, the regulations—

(i) shall not contravene any law or regulation regarding Federal Government employees; and

(ii) shall provide for the Director of the Office of Management and Budget, in consultation with the Director of the Office of Personnel Management, to furnish information on relevant available benefits and assistance to Federal Government employees adversely affected by conversions to use of private sector entities for providing goods and services.

## (C) BEST VALUE SOURCES.—

(i) STANDARDS AND PROCEDURES.—The regulations shall include standards and procedures for determining whether it is a private sector source or an agency that provides certain goods or services for the best value.

(ii) FACTORS CONSIDERED.—The standards and procedures shall include requirements for consideration of analyses of all direct and indirect costs (performed in a manner consistent with generally accepted cost-accounting principles), the qualifications of sources, the past performance of sources, and any other technical and noncost factors that are relevant.

(iii) CONSULTATION REQUIREMENT.—The Director shall consult with persons from the private sector and persons from the public sector in developing the standards and procedures.

(D) APPROPRIATE GOVERNMENTAL ACTIVITIES.—The regulations shall include a methodology for determining what types of activities performed by an agency should continue to be performed by the agency or any other agency.

(b) COMPLIANCE AND IMPLEMENTATION ASSISTANCE.—

(1) OMB CENTER FOR COMMERCIAL ACTIVITIES.—The Director of the Office of Management and Budget shall establish a Center for Commercial Activities within the Office of Management and Budget.

## (2) RESPONSIBILITIES.—The Center—

(A) shall be responsible for the implementation of and compliance with the policies, standards, and procedures that are set forth in this title or are prescribed to carry out this title; and

(B) shall provide agencies and private sector entities with guidance, information, and other assistance appropriate for facilitating conversions to use of private sector entities for providing goods and services on behalf of the Federal Government.

**SEC. 1305. STUDY AND REPORT ON COMMERCIAL ACTIVITIES OF THE GOVERNMENT.**

(a) ANNUAL PERFORMANCE PLAN.—Section 1115(a) of title 31, United States Code, is amended—

(1) by striking “and” at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting “; and”; and

(3) by adding at the end the following:

“(7) include—

“(A) the identity of each program activity that is performed for the agency by a private sector entity in accordance with the Freedom From Government Competition Act of 2002; and

“(B) the identity of each program activity that is not subject to the Freedom From Government Competition Act of 2002 by reason of an exception set forth in that Act, together with a discussion specifying why the activity is determined to be covered by the exception.”.

(b) ANNUAL PERFORMANCE REPORT.—Section 1116(d)(3) of title 31, United States Code, is amended—

(1) by striking “explain and describe,” in the matter preceding subparagraph (A);

(2) in subparagraph (A), by inserting “explain and describe” after “(A)”;

(3) in subparagraph (B)—

(A) by inserting “explain and describe” after “(B)”;

(B) by striking “and” at the end;

(4) in subparagraph (C)—

(A) by inserting “explain and describe” after “infeasible,”; and

(B) by inserting “and” at the end; and

(5) by adding at the end the following:

“(D) in the case of an activity not performed by a private sector entity—

“(i) explain and describe whether the activity could be performed for the Federal Government by a private sector entity in accordance with the Freedom From Government Competition Act of 2002; and

“(ii) if the activity could be performed by a private sector entity, set forth a schedule for converting to performance of the activity by a private sector entity.”.

**SEC. 1306. DEFINITIONS.**

(a) AGENCY.—As used in this title, the term “agency” means the following:

(1) EXECUTIVE DEPARTMENT.—An executive department as defined by section 101 of title 5, United States Code.

(2) MILITARY DEPARTMENT.—A military department as defined by section 102 of title 5.

(3) INDEPENDENT ESTABLISHMENT.—An independent establishment as defined by section 104(1) of title 5, United States Code.

(b) INHERENTLY GOVERNMENTAL GOODS AND SERVICES.—

(1) PERFORMANCE OF INHERENTLY GOVERNMENTAL FUNCTIONS.—For the purposes of section 1303(c)(1)(A), goods or services are inherently governmental in nature if the providing of such goods or services is an inherently governmental function.

(2) INHERENTLY GOVERNMENTAL FUNCTIONS DESCRIBED.—

(A) FUNCTIONS INCLUDED.—For the purposes of paragraph (1), a function shall be considered an inherently governmental function if the function is so intimately related to the public interest as to mandate performance by Federal Government employees. Such functions include activities that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as to—

(i) bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(ii) determine, protect, and advance its economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(iii) significantly affect the life, liberty, or property of private persons;

(iv) commission, appoint, direct, or control officers or employees of the United States; or

(v) exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the control or disbursement of appropriated and other Federal funds.

(B) FUNCTIONS EXCLUDED.—For the purposes of paragraph (1), inherently governmental functions do not normally include—

(i) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials;

(ii) any function that is primarily ministerial or internal in nature (such as building security, mail operations, operation of cafeterias, laundry and housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management and operations, or other routine electrical or mechanical services); or

(iii) any good or service which is currently or could reasonably be produced or performed, respectively, by an entity in the private sector.

**SA 3921.** Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

**TITLE XIII—FEDERAL ACTIVITIES  
INVENTORY REFORM AMENDMENTS**

**SEC. 1301. SHORT TITLE; REFERENCES TO FAIR ACT OF 1998.**

(a) SHORT TITLE.—This title may be cited as the “Federal Activities Inventory Reform Amendments of 2002”.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 112 Stat. 2382; 31 U.S.C. 501 note).

**SEC. 1302. ANNUAL LISTS OF GOVERNMENT ACTIVITIES.**

(a) LISTS TO INCLUDE INHERENTLY GOVERNMENTAL ACTIVITIES.—Subsection (a) of section 2 is amended by inserting before the period at the end of the first sentence the following: “and those activities performed by Federal Government sources for the executive agency that, in that official’s judgment, are inherently governmental functions”.

(b) DESCRIPTIVE AND EXPLANATORY MATTERS TO BE INCLUDED.—Such subsection is further amended—

(1) by redesignating paragraph (3) as paragraph (5);

(2) by inserting after paragraph (2) the following new paragraphs (3) and (4):

“(3) A description of the activity, including—

“(A) a narrative description of the activity;

“(B) the product or service code, if any, that would be assigned to the activity under the Federal Procurement Data System if the activity were performed in the private sector; and

“(C) the Standard Industrial Classification code, if any, that would be assigned to the activity if the activity were performed in the private sector.

“(4) The organization within the executive agency that is performing the activity, or for which the activity is performed, and the location of that organization.”; and

(3) by adding at the end the following:

“(6) The identity of any provision of law or other authority that, except for subsection (f), would expressly or impliedly exempt the executive agency from the requirements of this section or of Office of Management and Budget Circular A-76 with respect to any activity that is not an inherently governmental activity, together with a discussion of the rationale for that exemption.”.

(c) DEADLINES FOR PUBLICATION OF LISTS AND CHANGES.—Subsection (c) of such section is amended—

(1) in paragraph (1)(B), by striking “promptly” and inserting “, not later than 30 working days after receiving the list,”; and

(2) in paragraph (2)(B), by inserting after “(B)” the following: “not later than 30 working days after the date of the final decision to make the change.”.

#### SEC. 1303. NOTIFICATION OF AFFECTED EMPLOYEES.

Section 2 is further amended by adding at the end the following:

“(f) NOTIFICATION OF AFFECTED EMPLOYEES.—At the same time that the Director of the Office of Management and Budget publishes a notice of the availability of a list of an executive agency under subsection (c)(1), the head of the executive agency shall notify each employee of the executive agency employed in an activity listed as not being an inherently governmental function that the activity may be converted to performance by a private sector source.”.

#### SEC. 1304. COMPETITION REQUIREMENTS.

(a) USE OF COMPETITIVE PROCEDURES.—

(1) REQUIREMENT.—The second sentence of section 2(d) is amended by striking “use a competitive process” and all that follows and inserting “select the source using competitive procedures applicable to the executive agency’s procurements.”

(2) COMPETITIVE PROCEDURES DEFINED.—Section 5 is amended by adding at the end the following:

“(3) COMPETITIVE PROCEDURES.—The term ‘competitive procedures’ has the meaning given that term in section 2302(2) of title 10, United States Code, and section 309(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(b)).”.

(b) COST COMPARISONS.—Section 2(e) is amended to read as follows:

“(e) COST COMPARISONS.—

“(1) REALISTIC AND FAIR COST COMPARISONS.—Before determining to contract with a private sector source for the performance of an executive agency activity on the basis of a comparison of the costs of procuring services from such a source with the cost of performing that activity by the executive agency, the head of the executive agency shall ensure that—

“(A) the cost comparison was conducted in accordance with—

“(i) Office of Management and Budget Circular A-76; and

“(ii) any provision of law that is applicable to the cost comparison, including (if applicable) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) relating to architectural and engineering services (including surveying and mapping services);

“(B) all costs have been considered, including the costs of quality assurance, technical monitoring of the performance of such activity, liability insurance, employee retirement and disability benefits, and all other overhead costs; and

“(C) the costs considered are realistic and fair.

“(2) EXEMPTION.—Notwithstanding any other provision of law, the performance of an activity that is not an inherently governmental function may be converted to performance by a private sector source without a cost comparison if the activity is performed by fewer than 10 full-time employees of the United States (or the equivalent in part-time employees or in a combination of full-time and part-time employees).”.

#### SEC. 1305. INAPPLICABILITY OF EXEMPTIONS IN OTHER LAWS.

Section 2 is amended by adding at the end the following:

“(f) EXEMPTIONS INAPPLICABLE.—The head of each executive agency shall carry out this Act notwithstanding any other provision of law that expressly or impliedly exempts that executive agency from developing an inventory of activities that are not inherently governmental functions and are performed by the executive agency or by Federal Government sources for the executive agency. The head of the executive agency shall include in the annual list prepared under subsection (a) a notation of each such exemption that, except for the preceding sentence, would otherwise apply to the executive agency or any such function.”.

#### SEC. 1306. PERFORMANCE FOR OTHER GOVERNMENTAL ORGANIZATIONS.

(a) LIMITATIONS.—Section 2, as amended by section 1305 of this Act, is further amended by adding at the end the following:

“(g) LIMITATIONS ON PERFORMANCE FOR OTHER GOVERNMENTAL ORGANIZATIONS.—

“(1) FEDERAL AGENCIES.—An activity that is not an inherently governmental function may not be performed for an executive agency by another Federal Government source under section 1535 of title 31, United States Code, unless, within three years before the order for that activity is placed with the other Federal Government source under that section, performance of that activity by the executive agency has been justified pursuant to a competition carried out under Office of Management and Budget Circular A-76.

“(2) STATE AND LOCAL GOVERNMENTS.—The head of an executive agency may not take any action under section 6505 of title 31, United States Code, to perform for the benefit of an agency of a State or a political subdivision of a State an activity that is not an inherently governmental function unless the head of the executive agency has first—

“(A) solicited offers for the performance of that activity in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)); and

“(B) determined on the basis of the response to the solicitation that no responsible private sector source is available to meet the needs of the executive agency for the performance of that activity for the executive agency.”.

(b) STATE DEFINED.—Section 5, as amended by section 1304(a)(2) of this Act, is further amended by adding at the end the following:

“(4) STATE.—The term ‘State’, includes the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.”.

#### SEC. 1307. CHALLENGES TO THE LIST.

(a) MATTERS SUBJECT TO CHALLENGE.—Section 3(a) is amended by striking “or an inclusion of a particular activity on,” and inserting “an inclusion of a particular activity on, or the classification of any activity on”.

(b) REVISION OF DEADLINES.—Section 3 is amended—

(1) in subsection (c), by striking “30 days” and inserting “90 working days”; and

(2) in subsection (d), by striking “28 days” and inserting “28 working days”; and

(3) in subsection (e)(2), by striking “10 days” and inserting “10 working days”.

(c) PUBLICATION OF RESOLUTION OF CHALLENGES.—Section 3 is amended by adding at the end the following:

“(f) PUBLICATION OF RESOLUTION OF CHALLENGES.—Not later than 30 working days after the head of an executive agency makes a decision on an appeal under subsection (e), the head of the executive agency shall publish in the Federal Register the following:

“(1) FINAL LIST.—A final version of the list that was challenged.

“(2) SCHEDULE FOR REVIEW OF LIST.—A schedule for the review to be conducted of

such list under section 2(d), together with a description of the intended review.”.

(d) WORKING DAYS DEFINED.—Section 5, as amended by section 1306(b) of this Act, is further amended by adding at the end the following:

“(5) WORKING DAY.—The term ‘working day’, in the administration of sections 2 and 3 with respect to a list of an executive agency, means a day on which the headquarters of the executive agency is open for the conduct of the executive agency’s business.”.

#### SEC. 1308. PROHIBITION ON CONVERSION TO PERFORMANCE BY FEDERAL PRISON INDUSTRIES.

Section 4 is amended by adding at the end the following:

“(c) PROHIBITED CONVERSION.—The performance of an activity of an executive agency that is not an inherently governmental function may not be converted to performance by a government corporation provided for under chapter 307 of title 18, United States Code.”.

#### SEC. 1309. INHERENTLY GOVERNMENTAL FUNCTION NOT TO INCLUDE RESEARCH AND DEVELOPMENT.

Section 5(2)(C) is amended—

(1) by striking “or” at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting “; or”; and

(3) by adding at the end the following:

“(iii) the conduct of research and development.”.

#### SEC. 1310. PRIVATE SECTOR SOURCE DEFINED.

Section 5, as amended by section 1307(d) of this Act, is further amended by adding at the end the following:

“(6) PRIVATE SECTOR SOURCE.—The term ‘private sector source’ means a person lawfully engaged in business for profit in the United States.”.

#### SEC. 1311. REPORT ON PORTABILITY OF FEDERAL PENSION BENEFITS.

(a) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to Congress a report on the portability of Federal pension benefits. The report shall contain—

(1) an evaluation of current Federal law, policies, and procedures relating to the conversion by Federal Government employees of their Federal pension benefits to private sector pension plans upon the transition of such employees from Federal Government employment to private sector employment;

(2) a discussion of any impediments to the conversion of Federal pension benefits as described in paragraph (1);

(3) an analysis of the scoring, under the Congressional Budget Act of 1974, of the conversion of Federal pension benefits as so described; and

(4) recommendations of the Director for any legislation required to permit the ready conversion of Federal pension benefits as so described.

(b) CONSULTATION.—The Director of the Office of Management and Budget shall consult with the Director of the Office of Personnel Management and other appropriate interested parties in preparing the report required by subsection (a).

**SA 3922.** Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:



At the end of subtitle A of title III, add the following:

**SEC. 305. CLARA BARTON CENTER FOR DOMESTIC PREPAREDNESS.**

Of the amount authorized to be appropriated by section 301(a)(5) for operation and maintenance for defensewide activities, \$3,000,000 shall be available for the Clara Barton Center for Domestic Preparedness, Arkansas.

**SA 3923.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2841, relating to a transfer of funds in lieu of acquisition of replacement property for National Wildlife Refuge system in Nevada, and insert the following:

**SEC. 2841. TRANSFER OF FUNDS FOR ACQUISITION OF REPLACEMENT PROPERTY FOR NATIONAL WILDLIFE REFUGE SYSTEM LANDS IN NEVADA.**

(a) TRANSFER OF FUNDS AUTHORIZED.—(1) The Secretary of the Air Force may, using amounts authorized to be appropriated by section 2304(a), transfer to the United States Fish and Wildlife Service \$15,000,000 to fulfill the obligations of the Air Force under section 3011(b)(5)(F) of the Military Lands Withdrawal Act of 1999 (title XXX of Public Law 106-65; 113 Stat. 889).

(2) Upon receipt by the Service of the funds transferred under paragraph (1), the obligations of the Air Force referred to in that paragraph shall be considered fulfilled.

(b) CONTRIBUTION TO FOUNDATION.—(1) The United States Fish and Wildlife Service shall grant funds received by the Service under subsection (a) in a lump sum to the National Fish and Wildlife Foundation for use in accomplishing the purposes of section 3011(b)(5)(F) of the Military Lands Withdrawal Act of 1999.

(2) Funds received by the Foundation under paragraph (1) shall be subject to the provisions of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), other than section 10(a) of that Act (16 U.S.C. 3709(a)).

**SA 3924.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

[The amendment was not available for printing. It will appear in a future edition of the RECORD.]

**SA 3925.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe per-

sonnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title X, add the following:

**SEC. 1065. TRANSFER OF HISTORIC DF-9E PANTHER AIRCRAFT TO WOMEN AIRFORCE SERVICE PILOTS MUSEUM.**

(a) AUTHORITY TO CONVEY.—The Secretary of the Navy may convey, without consideration, to the Women Airforce Service Pilots Museum in Quartzsite, Arizona (in this section referred to as the "W.A.S.P. museum"), all right, title, and interest of the United States in and to a DF-9E Panther aircraft (Bureau Number 125316). The conveyance shall be made by means of a conditional deed of gift.

(b) CONDITION OF AIRCRAFT.—The aircraft shall be conveyed under subsection (a) in "as is" condition. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) REVERTER UPON BREACH OF CONDITIONS.—The Secretary shall include in the instrument of conveyance of the aircraft under subsection (a)—

(1) a condition that the W.A.S.P. museum not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary; and

(2) a condition that if the Secretary determines at any time that the W.A.S.P. museum has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(d) CONVEYANCE AT NO COST TO THE UNITED STATES.—The conveyance of the aircraft under subsection (a) shall be made at no cost to the United States. Any costs associated with the conveyance, costs of determining compliance with subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the W.A.S.P. museum.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

**SA 3926.** Mr. WYDEN (for himself and Mr. SMITH of Oregon) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXVI, add the following:

**SEC. 2602. ARMY NATIONAL GUARD RESERVE CENTER, LANE COUNTY, OREGON.**

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 2601(1)(A) for the Army National Guard of the United States is hereby increased by \$9,000,000.

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section

2601(1)(A) for the Army National Guard of the United States, as increased by subsection (a), \$9,000,000 shall be available for a military construction project for a Reserve Center in Lane County, Oregon.

(2) The amount available under paragraph (1) for the military construction project referred to in that paragraph is in addition to any other amounts available under this Act for that project.

(c) OFFSET.—The amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army is hereby reduced by \$9,000,000.

**SA 3927.** Mrs. MURRAY (for herself and Ms. SNOWE) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 154, after line 20, insert the following:

**SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.**

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking "RESTRICTION ON USE OF FUNDS.—".

**SA 3928.** Mrs. HUTCHISON (for herself, Mr. BINGAMAN, Mr. LOTT, Mr. STEVENS, Mr. INOUE, Mr. BUNNING, Mrs. FEINSTEIN, Mr. CRAIG, Ms. COLLINS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. BOND, Mr. DOMENICI, Mr. BAYH, Mr. NELSON of Nebraska, Mr. BURNS, and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XXVIII, add the following:

**SEC. 2814. ADDITIONAL SELECTION CRITERIA FOR 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.**

(a) ADDITIONAL SELECTION CRITERIA.—Section 2913 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADDITIONAL CONSIDERATIONS.—The selection criteria for military installations shall also address the following:

"(1) Force structure and mission requirements through 2020, as specified by the document entitled 'Joint Vision 2020' issued by the Joint Chiefs of Staff, including—

"(A) mobilization requirements; and

"(B) requirements for utilization of facilities by the Department of Defense and by other departments and agencies of the United States, including—

"(i) joint use by two or more Armed Forces; and

“(i) use by one or more reserve components.

“(2) The availability and condition of facilities, land, and associated airspace, including—

“(A) proximity to mobilization points, including points of embarkation for air or rail transportation and ports; and

“(B) current, planned, and programmed military construction.

“(3) Considerations regarding ranges and airspace, including—

“(A) uniqueness; and

“(B) existing or potential physical, electromagnetic, or other encroachment.

“(4) Force protection.

“(5) Costs and effects of relocating critical infrastructure, including—

“(A) military construction costs at receiving military installations and facilities;

“(B) environmental costs, including costs of compliance with Federal and State environmental laws;

“(C) termination costs and other liabilities associated with existing contracts or agreements involving outsourcing or privatization of services, housing, or facilities used by the Department;

“(D) effects on co-located entities of the Department;

“(E) effects on co-located Federal agencies;

“(F) costs of transfers and relocations of civilian personnel, and other workforce considerations.

“(6) Homeland security requirements.

“(7) State or local support for a continued presence by the Department, including—

“(A) current or potential public or private partnerships in support of Department activities; and

“(B) the capacity of States and localities to respond positively to economic effects and other effects.

“(8) Applicable lessons from previous rounds of defense base closure and realignment, including disparities between anticipated savings and actual savings.

“(9) Anticipated savings and other benefits, including—

“(A) enhancement of capabilities through improved use of remaining infrastructure; and

“(B) the capacity to relocate units and other assets.

“(10) Any other considerations that the Secretary of Defense determines appropriate.”

(b) **WEIGHTING OF CRITERIA FOR TRANSPARENCY PURPOSES.**—Subsection (a) of such section 2913 is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) **WEIGHTING OF CRITERIA.**—At the same time the Secretary publishes the proposed criteria under paragraph (1), the Secretary shall publish in the Federal Register the formula proposed to be used by the Secretary in assigning weight to the various proposed criteria in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005.”

**SA 3929.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 13 and 14, insert the following:

**SEC. 828. LIMITATION ON ARMY CONTRACTING AGENCY.**

(a) **LIMITATION OF AUTHORITY.**—During the period specified in subsection (b), the Secretary of the Army may not remove or transfer the authority of a contracting officer of any Army installation to enter into, review, or approve contracts for the purchase of goods or services by reason of the establishment of an Army Contracting Agency or a similar entity for the regionalization or consolidation of installation support contracts or information technology contracts.

(b) **DURATION OF LIMITATION.**—Subsection (a) applies during the period beginning on the date of enactment of this Act and ending 45 days after the date on which the Secretary of the Army submits a report that meets the requirements of subsection (c) to—

(1) the Committee on Armed Services of the House of Representatives;

(2) the Committee on Armed Services of the Senate;

(3) the Committee on Small Business of the House of Representatives; and

(4) the Committee on Small Business and Entrepreneurship of the Senate.

(c) **REPORT CONTENT.**—A report from the Secretary of the Army meets the requirements of this subsection if it sets forth, in detail—

(1) the Army's plans and justification for the establishment of an Army Contracting Agency or similar entity;

(2) a discussion of how the establishment and operations of an agency described under paragraph (1) will affect Army compliance with—

(A) Department of Defense Directive 4205.1;

(B) section 15(g) of the Small Business Act; and

(C) section 15(k) of the Small Business Act; and

(3) the likely effects of the establishment and operations of an Army Contracting Agency (or similar entity) on small business participation in Army procurement contracts, including—

(A) the impact on small businesses located near Army installations, including—

(i) the anticipated increase or decrease in the total value of Army prime contracting with small businesses; and

(ii) the opportunities for small business owners to meet and interact with Army procurement personnel; and

(B) the likely increase in consolidated contracts and bundled contracts.

**SA 3930.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, between lines 13 and 14, insert the following:

**SEC. 828. REPORT ON EFFECTS OF ARMY CONTRACTING AGENCY.**

(a) **IN GENERAL.**—The Secretary of the Army shall submit a report on the effects of the establishment of an Army Contracting Agency on small business participation in Army procurements during the first year of operation of such an agency to—

(1) the Committee on Armed Services of the House of Representatives;

(2) the Committee on Armed Services of the Senate;

(3) the Committee on Small Business of the House of Representatives; and

(4) the Committee on Small Business and Entrepreneurship of the Senate.

(b) **CONTENT.**—The report required under subsection (a) shall include, in detail—

(1) the justification for the establishment of an Army Contracting Agency;

(2) a discussion of how the establishment and operations of an Army Contracting Agency has affected Army compliance with—

(A) Department of Defense Directive 4205.1;

(B) section 15(g) of the Small Business Act; and

(C) section 15(k) of the Small Business Act;

(3) the effect of the establishment and operations of an Army Contracting Agency on small business participation in Army procurement contracts, including—

(A) the impact on small businesses located near Army installations, including—

(i) the increase or decrease in the total value of Army prime contracting with local small businesses; and

(ii) the opportunities for small business owners to meet and interact with Army procurement personnel; and

(B) the increase in consolidated contracts and bundled contracts; and

(4) if there is a negative effect on small business participation in Army procurement contracts, in general or near any Army installation, a description of the Army's plan to increase small business participation where it is negatively affected.

(c) **TIME FOR SUBMISSION.**—The report under this section shall be due 15 months after the date of the establishment of the Army Contracting Agency.

**SA 3931.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title XXVIII, add the following:

**SEC. 2842. DESIGNATION OF CERTAIN LOUISIANA HIGHWAY AS DEFENSE ACCESS ROAD.**

Louisiana Highway 28 between Alexandria, Louisiana, and Leesville, Louisiana, a road providing access to the Joint Readiness Training Center, Louisiana, and to Fort Polk, Louisiana, is hereby designated as a defense access road for purposes of section 210 of title 23, United States Code.

**SA 3932.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 258, after line 24, insert the following:

**SEC. 1065. PROGRAMMING FOR A 310-SHIP FLEET FOR THE NAVY.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) The 2001 Quadrennial Defense Review establishes that the United States should maintain a Navy of at least 310 ships.



(2) The President proposes to procure only five ships for the Navy in fiscal year 2003 and proposes to procure only an average of 6.8 ships for the Navy annually thereafter through fiscal year 2007.

(3) The current level of spending on shipbuilding for the Navy will result in a Navy fleet of approximately 238 ships within 35 years.

(4) It is necessary for the Navy to procure over the long term, on average, 8.9 new ships each year (the steady-state replacement rate) in order to support the President's plans to achieve and maintain a Navy fleet of 310 ships.

(5) It may be necessary to achieve an average procurement rate of 11.2 ships each year beginning in fiscal year 2008 in order to compensate for the procurement of ships at an average annual rate below 8.9 ships in previous fiscal years.

(6) The Navy provides a United States presence worldwide, especially where forward land basing of United States forces is not possible.

(7) Seapower of the United States Navy is a cornerstone of our national defense.

(b) **FUTURE-YEARS DEFENSE PROGRAM.**—It is the policy of the United States for the budget of the United States for fiscal years after fiscal year 2003, and for the future-years defense program for such fiscal years (under section 221 of title 10, United States Code), to include sufficient funding for the Navy to maintain a fleet of at least 310 ships.

(c) **ANNUAL CERTIFICATION OF SUFFICIENCY.**—The President shall include in the budget submitted to Congress under section 1105(a) of title 31, United States Code, for each fiscal year after fiscal year 2003 either—

(1) a certification that the budget provides a level of funding for the Navy that is sufficient to sustain a fleet of at least 310 ships; or

(2) an explanation of why the budget does not provide such level of funding.

**SA 3933.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

**SEC. 522. LEAVE OF ABSENCE FOR MILITARY SERVICE.**

(a) **OBLIGATION AS PART OF PROGRAM PARTICIPATION REQUIREMENTS.**—Section 487(a)(22) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(22)) is amended by inserting “and with the policy on leave of absence for active duty military service established pursuant to section 484C” after “section 484B”.

(b) **LEAVE OF ABSENCE FOR MILITARY SERVICE.**—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 484B the following:

**“SEC. 484C. LEAVE OF ABSENCE FOR MILITARY SERVICE.**

“(a) **LEAVE OF ABSENCE REQUIRED.**—Whenever a student who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, the institution of higher education in which the student is enrolled shall grant the student a military leave of absence from the institution—

“(1) while such student is serving on active duty; and

“(2) for 1 year after the conclusion of such service.

“(b) **CONSEQUENCES OF MILITARY LEAVE OF ABSENCE.**—

“(1) **PRESERVATION OF STATUS AND ACCOUNTS.**—A student on a military leave of absence from an institution of higher education shall be entitled, upon release from serving on active duty, to be restored to the educational status such student had attained prior to being ordered to such duty without loss of—

“(A) academic credits earned;

“(B) scholarships or grants awarded; or

“(C) subject to paragraph (2), tuition and other fees paid prior to the commencement of the active duty.

“(2) **REFUNDS.**—

“(A) **OPTION OF REFUND OR CREDIT.**—An institution of higher education shall refund tuition or fees paid or credit the tuition and fees to the next period of enrollment after the student returns from a military leave of absence, at the option of the student. Notwithstanding the 180-day limitation in section 484B(a)(2), a student on a military leave of absence under this section shall not be treated as having withdrawn for purposes of section 484B unless the student fails to return at the end of the military leave of absence (as determined under subsection (a)).

“(B) **PROPORTIONATE REDUCTION OF REFUND FOR TIME COMPLETED.**—If a student requests a refund during a period of enrollment, the percentage of the tuition and fees that shall be refunded shall be equal 100 percent minus the percentage of the period of enrollment (for which the tuition and fees were paid) that was completed (as determined in accordance with section 484B(d)) as of the day the student withdrew.

“(c) **ACTIVE DUTY.**—The term ‘active duty’ has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school, but does include, in the case of members of the National Guard, active State duty.”.

**SA 3934.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

**SEC. 554. NATIONAL GUARD CHALLENGE PROGRAM.**

(a) **INCREASE IN FISCAL YEAR LIMITATION ON AMOUNT AVAILABLE FOR PROGRAM.**—(1) Section 509(b)(2)(A) of title 32, United States Code, is amended by striking “\$62,500,000” and inserting “\$66,000,000”.

(2) The amendment made by paragraph (1) shall take effect on October 1, 2002, and shall apply with respect to fiscal years beginning on or after that date.

(b) **AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2003.**—The total amount authorized to be appropriated by this Act for the Department of Defense for fiscal year 2003 for the National Guard Challenge Program of opportunities for civilian youth under section 509 of title 32, United States Code, is \$66,000,000.

**SA 3935.** Mr. NELSON of Florida (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 146, between lines 2 and 3, insert the following:

**SEC. 644. REPEAL OF REQUIREMENT FOR REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) **REPEAL.**—(1) Section 1450 of title 10, United States Code, is amended by striking subsections (c) and (e).

(2) Section 1451(c) of such title is amended by striking paragraph (2).

(b) **PROHIBITION ON RETROACTIVE BENEFITS.**—No benefits may be paid to any person for any period before the effective date specified in subsection (c) by reason of the amendments made by subsection (a).

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

**SA 3936.** Mr. NELSON of Florida (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

**SEC. 1035. REPORTS ON EFFORTS TO RESOLVE WHEREABOUTS AND STATUS OF CAPTAIN MICHAEL SCOTT SPEICHER, UNITED STATES NAVY.**

(a) **REPORTS.**—Not later than 60 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall, in consultation with the Secretary of State and the Director of Central Intelligence, submit to Congress a report on the efforts of the United States Government to determine the whereabouts and status of Captain Michael Scott Speicher, United States Navy.

(b) **PERIOD COVERED BY REPORTS.**—The first report under subsection (a) shall cover efforts described in that subsection preceding the date of the report, and each subsequent report shall cover efforts described in that subsection during the 90-day period ending on the date of such report.

(c) **REPORT ELEMENTS.**—Each report under subsection (a) shall describe, for the period covered by such report—

(1) all direct and indirect contacts with the Government of Iraq, or any successor government, regarding the whereabouts and status of Michael Scott Speicher;

(2) any request made to the government of another country, including the intelligence

service of such country, for assistance in resolving the whereabouts and status of Michael Scott Speicher, including the response to such request;

(3) each current lead on the whereabouts and status of Michael Scott Speicher, including an assessment of the utility of such lead in resolving the whereabouts and status of Michael Scott Speicher; and

(4) any cooperation with nongovernmental organizations or international organizations in resolving the whereabouts and status of Michael Scott Speicher, including the results of such cooperation.

(d) **FORM OF REPORTS.**—Each report under subsection (a) shall be submitted in classified form, but may include an unclassified summary.

**SA 3937.** Mr. NELSON of Florida (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

**SEC. 135. SENSE OF CONGRESS REGARDING ASSURED ACCESS TO SPACE.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) Assured access to space is a vital national security interest of the United States.

(2) The Evolved Expendable Launch Vehicle program of the Department of Defense is a critical element of the Department's plans for assuring United States access to space.

(3) Significant contractions in the commercial space launch marketplace have eroded the overall viability of the United States space launch industrial base and could hamper the ability of the Department of Defense to provide assured access to space in the future.

(4) The continuing viability of the United States space launch industrial base is a critical element of any strategy to ensure the long-term ability of the United States to assure access to space.

(5) The Under Secretary of the Air Force, as acquisition executive for space programs in the Department of Defense, has been authorized to develop a strategy to address United States space launch and assured access to space requirements.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Under Secretary of the Air Force should—

(1) evaluate all options for sustaining the United States space launch industrial base;

(2) develop an integrated, long-range, and adequately funded plan for assuring United States access to space; and

(3) submit to Congress a report on the plan at the earliest opportunity practicable.

**SA 3938.** Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 217, between lines 13 and 14, insert the following:

**SEC. 1010. CLEARANCE OF CERTAIN TRANSACTIONS RECORDED IN TREASURY SUSPENSE ACCOUNTS AND RESOLUTION OF CERTAIN CHECK ISSUANCE DISCREPANCIES.**

(a) **CLEARING OF SUSPENSE ACCOUNTS.**—(1) In the case of any transaction that was entered into by or on behalf of the Department of Defense before March 1, 2001, that is recorded in the Department of Treasury Budget Clearing Account (Suspense) designated as account F3875, the Unavailable Check Cancellations and Overpayments (Suspense) designated as account F3880, or an Undistributed Intergovernmental Payments account designated as account F3885, and for which no appropriation for the Department of Defense has been identified—

(A) any undistributed collection credited to such account in such case shall be deposited to the miscellaneous receipts of the Treasury; and

(B) subject to paragraph (2), any undistributed disbursement recorded in such account in such case shall be canceled.

(2) An undistributed disbursement may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to demonstrate which appropriation should be charged and further efforts are not in the best interests of the United States.

(b) **RESOLUTION OF CHECK ISSUANCE DISCREPANCIES.**—(1) In the case of any check drawn on the Treasury that was issued by or on behalf of the Department of Defense before October 31, 1998, for which the Secretary of the Treasury has reported to the Department of Defense a discrepancy between the amount paid and the amount of the check as transmitted to the Department of Treasury, and for which no specific appropriation for the Department of Defense can be identified as being associated with the check, the discrepancy shall be canceled, subject to paragraph (2).

(2) A discrepancy may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to demonstrate which appropriation should be charged and further efforts are not in the best interests of the United States.

(c) **CONSULTATION.**—The Secretary of Defense shall consult the Secretary of the Treasury in the exercise of the authority granted by subsections (a) and (b).

(d) **DURATION OF AUTHORITY.**—(1) A particular undistributed disbursement may not be canceled under subsection (a) more than 30 days after the date of the written determination made by the Secretary of Defense under such subsection regarding that undistributed disbursement.

(2) A particular discrepancy may not be canceled under subsection (b) more than 30 days after the date of the written determination made by the Secretary of Defense under such subsection regarding that discrepancy.

(3) No authority may be exercised under this section after the date that is two years after the date of the enactment of this Act.

**SA 3939.** Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel

strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 90, between lines 19 and 20, insert the following:

**SEC. 346. LOGISTICS SUPPORT AND SERVICES FOR WEAPON SYSTEMS CONTRACTORS.**

(a) **AUTHORITY.**—The Secretary of Defense may make available, in accordance with this section and the regulations prescribed under subsection (e), logistics support and logistics services to a contractor in support of the performance by the contractor of a contract for the construction, modification, or maintenance of a weapon system that is entered into by an official of the Department of Defense.

(b) **SUPPORT CONTRACTS.**—Any logistics support and logistics services that is to be provided under this section to a contractor in support of the performance of a contract shall be provided under a separate contract that is entered into by the Director of the Defense Logistics Agency with that contractor.

(c) **SCOPE OF SUPPORT AND SERVICES.**—The logistics support and logistics services that may be provided under this section in support of the performance of a contract described in subsection (a) are the distribution, disposal, and cataloging of materiel and repair parts necessary for the performance of that contract.

(d) **LIMITATIONS.**—(1) The number of contracts described in subsection (a) for which the Secretary makes logistics support and logistics services available under the authority of this section may not exceed five contracts. The total amount of the estimated costs of all such contracts for which logistics support and logistics services are made available under this section may not exceed \$100,000,000.

(2) No contract entered into by the Director of the Defense Logistics Agency under subsection (b) may be for a period in excess of five years, including periods for which the contract is extended under options to extend the contract.

(e) **REGULATIONS.**—Before exercising the authority under this section, the Secretary of Defense shall prescribe in regulations such requirements, conditions, and restrictions as the Secretary determines appropriate to ensure that logistics support and logistics services are provided under this section only when it is in the best interests of the United States to do so. The regulations shall include, at a minimum, the following:

(1) A requirement for the authority under this section to be used only for providing logistics support and logistics services in support of the performance of a contract that is entered into using competitive procedures (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)).

(2) A requirement for the solicitation of offers for a contract described in subsection (a), for which logistics support and logistics services are to be made available under this section, to include—

(A) a statement that the logistics support and logistics services are to be made available under the authority of this section to any contractor awarded the contract, but only on a basis that does not require acceptance of the support and services; and

(B) a description of the range of the logistics support and logistics services that are to be made available to the contractor.

(3) A requirement for the rates charged a contractor for logistics support and logistics services provided to a contractor under this section to reflect the full cost to the United States of the resources used in providing the support and services, including the costs of

resources used, but not paid for, by the Department of Defense.

(4) A requirement to credit to the General Fund of the Treasury amounts received by the Department of Defense from a contractor for the cost of logistics support and logistics services provided to the contractor by the Department of Defense under this section but not paid for out of funds available to the Department of Defense.

(5) With respect to a contract described in subsection (a) that is being performed for a department or agency outside the Department of Defense, a prohibition, in accordance with applicable contracting procedures, on the imposition of any charge on that department or agency for any effort of Department of Defense personnel or the contractor to correct deficiencies in the performance of such contract.

(6) A prohibition on the imposition of any charge on a contractor for any effort of the contractor to correct a deficiency in the performance of logistics support and logistics services provided to the contractor under this section.

(f) RELATIONSHIP TO TREATY OBLIGATIONS.—The Secretary shall ensure that the exercise of authority under this section does not conflict with any obligation of the United States under any treaty or other international agreement.

(g) TERMINATION OF AUTHORITY.—(1) The authority provided in this section shall expire on September 30, 2007, subject to paragraph (2).

(2) The expiration of the authority under this section does not terminate—

(A) any contract that was entered into by the Director of the Defense Logistics Agency under subsection (b) before the expiration of the authority or any obligation to provide logistics support and logistics services under that contract; or

(B) any authority—

(i) to enter into a contract described in subsection (a) for which a solicitation of offers was issued in accordance with the regulations prescribed pursuant to subsection (e)(2) before the date of the expiration of the authority; or

(ii) to provide logistics support and logistics services to the contractor with respect to that contract in accordance with this section.

**SA 3940.** Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 23, between lines 12 and 13, and insert the following:

**SEC. 135. COMPASS CALL PROGRAM.**

Of the amount authorized to be appropriated by section 103(1), \$12,700,000 shall be available for the Compass Call program within classified projects and not within the Defense Airborne Reconnaissance Program.

**SA 3941.** Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 17, strike line 14, and insert the following:

**SEC. 121. INTEGRATED BRIDGE SYSTEM.**

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated by section 102(a)(4), \$5,000,000 shall be available for the procurement of the integrated bridge system in items less than \$5,000,000.

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 102(a)(4), the amount available for the integrated bridge system in Aegis support equipment is hereby reduced by \$5,000,000.

**SA 3942.** Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

Strike section 344.

**SA 3943.** Mr. WARNER (for Ms. COLLINS) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 26, after line 22, insert the following:

**SEC. 214. LASER WELDING AND CUTTING DEMONSTRATION.**

(a) AMOUNT FOR PROGRAM.—Of the total amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, \$6,000,000 shall be available for the laser welding and cutting demonstration in force protection applied research (PE 0602123N).

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for laser welding and cutting demonstration in surface ship and submarine HM&E advanced technology (PE 0603508N) is hereby reduced by \$6,000,000.

**SA 3944.** Mr. LEVIN (for Ms. LANDRIEU) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 37, beginning on line 14, strike “Under Secretary of Defense for Acquisition, Technology, and Logistics” and insert “Director of Operational Test and Evaluation”.

On page 41, line 14, strike “Chapter 643” and insert “Chapter 645”.

On page 46, line 20, insert “the Under Secretary of Defense for Personnel and Readiness and” after “consult with”.

Strike section 236 and insert the following:

**SEC. 236. COMPLIANCE WITH TESTING REQUIREMENTS.**

(a) ANNUAL OT&E REPORT.—Subsection (g) of section 139 of title 10, United States Code,

is amended by inserting after the fourth sentence the following: “The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.”.

(b) REORGANIZATION OF PROVISION.—Subsection (g) of such section, as amended by subsection (a), is further amended—

(1) by inserting “(1)” after “(g)”;

(2) by designating the second sentence as paragraph (2);

(3) by designating the third sentence as paragraph (3);

(4) by designating the matter consisting of the fourth and fifth sentences as paragraph (4);

(5) by designating the sixth sentence as paragraph (5); and

(6) by realigning paragraphs (2), (3), (4), and (5), as so designated, two ems from the left margin.

**SA 3945.** Mr. WARNER (for Mr. GRASSLEY (for himself, Mr. HARKIN, Mrs. CLINTON, Mr. SCHUMER, Mr. DURBIN, Mr. FITZGERALD, and Mrs. LINCOLN)) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title III, add the following:

**SEC. 346. CONTINUATION OF ARSENAL SUPPORT PROGRAM INITIATIVE.**

(a) EXTENSION THROUGH FISCAL YEAR 2004.—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-65) is amended by striking “and 2002” and inserting “through 2004”.

(b) REPORTING REQUIREMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking “2002” and inserting “2004”; and

(2) in paragraph (2), by striking the first sentence and inserting the following new sentence: “Not later than July 1, 2003, the Secretary of the Army shall submit to the congressional defense committees a report on the results of the demonstration program since its implementation, including the Secretary’s views regarding the benefits of the program for Army manufacturing arsenals and the Department of the Army and the success of the program in achieving the purposes specified in subsection (b).”.

**SA 3946.** Mr. LEVIN (for Mr. CLELAND (for himself and Mr. HUTCHINSON)), proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 17, line 23, insert before the period the following: “, and except that, notwithstanding subsection (k) of such section, such a contract may be for a period of six program years”.

**SA 3947.** Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title VI, add the following:

**SEC. 655. RATE OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL OF DEPENDENTS TRANSFERRED ENTITLEMENT BY MEMBERS OF THE ARMED FORCES WITH CRITICAL SKILLS.**

(a) CLARIFICATION.—Section 3020(h) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking “paragraphs (4) and (5)” and inserting “paragraphs (5) and (6)”; and

(B) by striking “and at the same rate”;

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3)(A) Subject to subparagraph (B), the monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 3015 and 3022 of this title to the individual making the transfer.

“(B) The monthly rate of assistance payable to a dependent under subparagraph (A) shall be subject to the provisions of section 3032 of this title, except that the provisions of subsection (a)(1) of that section shall not apply even if the individual making the transfer to the dependent under this section is on active duty during all or any part of enrollment period of the dependent in which such entitlement is used.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), to which such amendments relate.

**SA 3948.** Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 100, between lines 3 and 4, insert the following:

**SEC. 503. REPEAL OF LIMITATION ON AUTHORITY TO GRANT CERTAIN OFFICERS A WAIVER OF REQUIRED SEQUENCE FOR JOINT PROFESSIONAL MILITARY EDUCATION AND JOINT DUTY ASSIGNMENT.**

Section 661(c)(3)(D) of title 10, United States Code, is amended by striking “In the case of officers in grades below brigadier general” and all that follows through “selected for the joint specialty during that fiscal year.”.

**SA 3949.** Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of De-

fense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 154, after line 20, add the following:

**SEC. 708. EXTENSION OF TEMPORARY AUTHORITY FOR ENTERING INTO PERSONAL SERVICES CONTRACTS FOR THE PERFORMANCE OF HEALTH CARE RESPONSIBILITIES FOR THE ARMED FORCES AT LOCATIONS OTHER THAN MILITARY MEDICAL TREATMENT FACILITIES.**

Section 1091(a)(2) of title 10, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

**SA 3950.** Mr. LEVIN (for Mr. CLELAND) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 100, between lines 3 and 4, insert the following:

**SEC. 503. EXTENSION OF TEMPORARY AUTHORITY FOR RECALL OF RETIRED AVIATORS.**

Section 501(e) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 589) is amended by striking “September 30, 2002” and inserting “September 30, 2008”.

**SA 3951.** Mr. LEVIN (for himself and Mr. SESSIONS) proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 200, between lines 14 and 15, insert the following:

**SEC. 905. WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.**

(a) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—Section 2166 of title 10, United States Code, is amended—

(1) by redesignating subsections (f), (g), and (h), as subsections (g), (h), and (i), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

“(f) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the Institute, accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.

“(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.

“(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds \$1,000,000 in any fiscal year. Any such notice shall list

each of the contributors of such money and the amount of each contribution in such fiscal year.

“(4) For the purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.”.

(b) CONTENT OF ANNUAL REPORT TO CONGRESS.—Subsection (i) of such section, as redesignated by subsection (a)(1), is amended by inserting after the first sentence the following: “The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board’s report.”.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 20, 2002, at 9:30 a.m., in open session to consider the nomination of General Ralph E. Eberhart, USAF for reappointment to the grade of general and to be Commander in Chief, U.S. Northern Command/Commander, North American Aerospace Defense Command.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, June 20, 2002, at 4:30 p.m., to hold a “top secret” classified hearing on the security of nuclear facilities under the jurisdiction of the U.S. Nuclear Regulatory Commission. The hearing will be held in S. 407 of the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, June 20, 2002, at 9:30 a.m., for the purpose of holding a hearing regarding “President Bush’s Proposal to Create a Department of Homeland Security.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on “Workers Freedom of Association: Obstacles to Forming a Union” during the session of the Senate on Thursday, June 20, 2002, at 10 a.m., in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on