and I look forward to working with this new Congress and chairmen of the committees of jurisdiction on this most important issue.

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

Madam Speaker, this is a costly bill. This is a bill that is an intrusion not only upon a system that works well, but it is also aiming at an unintended consequence, and that is it is not only going to be more expensive for the government to pay for those services that it wants to buy, but it is going to make it also more costly to the taxpayer in the amount of spending that takes place.

We think there could be better ways that this could be accomplished. I ask all of my Members to oppose this bill.

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

Ms. CASTOR. Madam Speaker, I yield myself the balance of my time.

From day one, this new Congress has been working to restore accountability in Washington, including adopting fiscally responsible pay-as-you-go budgeting and fighting for higher ethical standards in government.

It is heartening to the American people, I know, that much of this has been done in a bipartisan way. And indeed, on this bill this morning, I anticipate that the House will follow the unanimous and bipartisan votes of the Oversight and Government Reform Committee and the Armed Services Committee.

As part of our ongoing effort to fight for fiscally responsible budgeting and higher ethical standards, this week I know, today, we will pass this legislation and this rule that changes the way that Congress and the Federal Government does business. It shines a bright light on how government operates. We will continue to answer the call of the American people for change and reform.

I urge a ''yes'' vote on the rule and on the previous question.

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

The previous question was ordered.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 190, not voting 20, as follows:

[Roll No. 154]

YEAS—223

Abercrombie	Allen	Andrews
Ackerman	Altmire	Arcuri
Baca	Herseth	Oberstar
Baldwin	Higgins	Obey
Barrow	Hill	Olver
Bean	Hinchey	Ortiz
Becerra	Hinojosa	Pallone
Berkley	Hirono	Pascrell
Berman	Hodes	Pastor
Berry	Holden	Payne
Bishop (GA)	Holt	Perlmutter
Bishop (NY)	Honda	Peterson (MN)
Blumenauer	Hooley	Pomeroy
Boren	Hoyer	Price (NC)
Boswell	Inslee	Rahall
Boucher	Israel	Rangel
Boyd (FL)	Jackson (IL)	Reyes
Boyda (KS)	Jackson-Lee (TX)	Rodriguez
Brady (PA)	Jefferson	Ross
Braley (IA)	Johnson (GA)	Rothman
Brown, Corrine	Johnson, E. B.	Roybal-Allard
Butterfield	Jones (OH)	Ruppersberger
Capps	Kagen	Rush
Capuano	Kaptur	Ryan (OH)
Cardoza	Kennedy	Salazar
Carnahan	Kildee	Sánchez, Linda T.
Carney	Kilpatrick	Sanchez, Loretta
Carson	Klein (FL)	Sarbanes
Castor	Kucinich	Schakowsky
Chandler	LaHood	Schiff
Clarke	Lampson	Schwartz
Cleaver	Langevin	Scott (GA)
Clyburn	Lantos	Scott (VA)
Cohen	Larsen (WA)	Serrano
Conyers	Larson (CT)	Sestak
Cooper	Lee	Shea-Porter
Costa	Levin	Sherman
Costello	Lewis (GA)	Shuler
Courtney	Lipinski	Sires
Cramer	Loebsack	Skelton
Cuellar	Lofgren, Zoe	Slaughter
Cummings	Lowey	Smith (WA)
Davis (AL)	Lynch	Snyder
Davis (CA)	Mahoney (FL)	Solis
Davis (IL)	Maloney (NY)	Space
Davis, Lincoln	Markey	Spratt
DeFazio	Marshall	Stark
DeGette	Matheson	Stupak
Delahunt	Matsui	Sutton
DeLauro	McCarthy (NY)	Tauscher
Dicks	McCollum (MN)	Taylor
Doggett	McDermott	Thompson (CA)
Donnelly	McGovern	Thompson (MS)
Doyle	McIntyre	Tierney
Edwards	McNerney	Towns
Ellison	McNulty	Udall (CO)
Ellsworth	Meehan	Udall (NM)
Emanuel	Meek (FL)	Van Hollen
Engel	Meeks (NY)	Velázquez
Eshoo	Melancon	Visclosky
Etheridge	Michaud	Walz (MN)
Farr	Millender-McDonald	Wasserman Schultz
Fattah	Miller (NC)	Waters
Filner	Mitchell	Watson
Frank (MA)	Mollohan	Watt
Giffords	Moore (KS)	Waxman
Gillibrand	Moore (WI)	Weiner
Gonzalez	Moran (VA)	Welch (VT)
Gordon	Murphy (CT)	Wilson (OH)
Green, Al	Murphy, Patrick	Woolsey
Green, Gene	Murtha	Wu
Grijalva	Nadler	Wynn
Hall (NY)	Napolitano	Yarmuth
Hare	Neal (MA)	
Harman		
Hastings (FL)		

NAYS—190

Aderholt	Burton (IN)	Diaz-Balart, M.
Akin	Buyer	Doolittle
Alexander	Calvert	Drake
Bachmann	Camp (MI)	Dreier
Bachus	Campbell (CA)	Duncan
Baker	Cannon	Ehlers
Barrett (SC)	Cantor	Emerson
Bartlett (MD)	Capito	English (PA)
Barton (TX)	Carter	Everett
Biggert	Castle	Fallin
Bilbray	Chabot	Feeney
Bilirakis	Coble	Ferguson
Bishop (UT)	Cole (OK)	Flake
Blackburn	Conaway	Forbes
Blunt	Crenshaw	Fortenberry
Boehner	Cubin	Foxx
Bonner	Culberson	Franks (AZ)
Bono	Davis (KY)	Frelinghuysen
Boozman	Davis, David	Gallegly
Boustany	Davis, Tom	Garrett (NJ)
Brady (TX)	Deal (GA)	Gilchrest
Buchanan	Dent	Gillmor
Burgess	Diaz-Balart, L.	Gingrey
Goode	Manzullo	Rogers (MI)
Goodlatte	Marchant	Rohrabacher
Granger	McCarthy (CA)	Ros-Lehtinen
Graves	McCaul (TX)	Roskam
Hall (TX)	McCotter	Royce
Hastert	McCrery	Ryan (WI)
Hastings (WA)	McHenry	Sali
Hayes	McHugh	Schmidt
Heller	McKeon	Sensenbrenner
Hensarling	McMorris Rodgers	Sessions
Herger	Mica	Shadegg
Hobson	Miller (FL)	Shays
Hoekstra	Miller (MI)	Shimkus
Hulshof	Miller, Gary	Shuster
Hunter	Moran (KS)	Simpson
Inglis (SC)	Murphy, Tim	Smith (NE)
Issa	Musgrave	Smith (NJ)
Jindal	Myrick	Smith (TX)
Johnson (IL)	Neugebauer	Souder
Johnson, Sam	Nunes	Stearns
Jones (NC)	Paul	Sullivan
Jordan	Pearce	Tancredo
Keller	Pence	Terry
King (IA)	Petri	Thornberry
King (NY)	Pickering	Tiahrt
Kingston	Pitts	Tiberi
Kirk	Platts	Turner
Kline (MN)	Poe	Upton
Knollenberg	Porter	Walberg
Kuhl (NY)	Price (GA)	Walden (OR)
Lamborn	Pryce (OH)	Walsh (NY)
Latham	Putnam	Wamp
LaTourette	Ramstad	Weldon (FL)
Lewis (CA)	Regula	Weller
Lewis (KY)	Rehberg	Whitfield
Linder	Reichert	Wicker
LoBiondo	Renzi	Wilson (NM)
Lucas	Reynolds	Wilson (SC)
Lungren, Daniel E.	Rogers (AL)	Wolf
Mack	Rogers (KY)	Young (AK)
		Young (FL)

NOT VOTING—20

Baird	Dingell	Miller, George
Brown (SC)	Fossella	Peterson (PA)
Brown-Waite, Ginny	Gerlach	Radanovich
Clay	Gohmert	Saxton
Crowley	Gutierrez	Tanner
Davis, Jo Ann	Kanjorski	Westmoreland
	Kind	Wexler

□ 1105

Messrs. BOOZMAN, NEUGEBAUER, PICKERING, BISHOP of Utah and ROHRABACHER changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1362, the Accountability in Contracting Act.

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

There was no objection.

ACCOUNTABILITY IN CONTRACTING ACT

The SPEAKER pro tempore. Pursuant to House Resolution 242 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1362.

□ 1109

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole

House on the State of the Union for the consideration of the bill (H.R. 1362) to reform acquisition practices of the Federal Government, with Ms. SOLIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour and 20 minutes, with 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Oversight and Government Reform and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

The gentleman from California (Mr. WAXMAN) and the gentleman from Virginia (Mr. TOM DAVIS) each will control 30 minutes, and the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) each will control 10 minutes.

The Chair recognizes the gentleman from California.

Mr. WAXMAN. Madam Chairman, I yield myself such time as I may consume of the time that has been reserved to us.

The bill before us, H.R. 1362, the Accountability in Contracting Act, would increase transparency and accountability in Federal contracting, limit the use of certain types of abuse-prone contracts and promote integrity in the acquisition workforce.

Under the Bush administration, spending on Federal contracts has exploded in size. The Federal Government spent $175 billion more in Federal contracts in 2005 than it did in 2000, making Federal contracts the fastest growing component of the Federal budget.

The Federal Government now spends nearly 40 percent of discretionary spending on contracts with private companies, a record level. This surge in contract spending has enriched private contractors like Halliburton, but it has come at a steep cost to taxpayers through rising waste, fraud, abuse and mismanagement.

Spending on sole source and other noncompetitive contracts has more than doubled in the last 5 years. The administration has justified the awarding of these lucrative sole source contracts by citing urgent and compelling needs, but then they allow these contracts to continue years after the emergency has passed.

Cost reimbursement type contracts leave the taxpayers vulnerable to wasteful spending by providing contractors with little or no incentive to control costs. But between 2000 and 2005, the use of this type of contract has risen by 75 percent.

The administration has also hidden contractor overcharges from Congress, international auditors and the public, impeding oversight and diminishing accountability. Too often, the independence of procurement of officials has been compromised by illegal relationships with government contractors.

Darleen Druyun, the former chief acquisition official for the Air Force, negotiated a lucrative deal to lease aircraft from Boeing in exchange for future employment. All of these problems have been compounded by an insufficient acquisition workforce to properly award and adequately oversee Federal contracts.

H.R. 1362 contains important provisions to rein in out-of-control Federal contracting. It would require Federal agencies to develop plans to minimize the use of the sole source contracts, and it would limit the duration of no-bid contracts issued in emergencies.

The bill would also require agencies to encourage the use of fixed-price contracts, which are not as prone to abuse as cost-plus contracts. This provision will allow the growth of contracts to give companies a financial incentive to increase their costs to the taxpayers.

When a sole source contract is awarded, agencies are required to prepare a justification and approval document to explain why full and open competition was not used to award the contract. The bill would require those documents to be made public.

The bill also promotes transparency in the acquisition process by requiring agencies to report to Congress when auditors identify over $10 million in questioned or unsupported costs. A big and growing problem with the Federal acquisition system is that it has a workforce that is too small and undertrained. The bill requires the administration to develop a comprehensive definition of the acquisition workforce and ensures that funds for training will continue to be available.

Finally, the bill includes revolving door provisions that close loopholes in the law, prohibiting contracting officials from negotiating employment for their relatives and establish a cooling off period before procurement officials can award or oversee contracts involving a former employer.

All of this is important legislation. This legislation alone will not do the job. We need, however, to continue our oversight, and Congress has already begun many oversight hearings in our committee and in other committees as well.

Members are starting to ask what went wrong and to insist on accountability. But this legislation is an important reform in the contracting area. I want to thank my ranking member, TOM DAVIS, and the chairman and ranking member of the Armed Services Committee for their hard work and efforts in reaching a bipartisan consensus on the bill before us.

□ 1115

The Accountability in Contracting Act makes sound commonsense reforms which will improve the transparency and accountability of the Federal acquisition system, and I urge Members to support the bill.

Madam Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Madam Chairman, I yield myself such time as I may consume.

I rise today to speak on H.R. 1362, the Accountability in Contracting Act, which was introduced by Government Oversight and Reform chairman HENRY WAXMAN last week. I want to thank the chairman for working with us.

This is not a bill that we are particularly enthusiastic about. We have very divergent views in the way we should go about contract regulation, but we both want the same ends. And I want to commend him for working with us, addressing some of our concerns as it moved through the committee process.

This bill would attempt to reform our acquisition system through a series of restrictions and reports geared towards greater regulation and oversight. More specifically, the legislation would limit the duration of contracts awarded under urgent conditions; require agency reports on minimizing the use of fixed-price and sole-source contracts; require additional reports to Congress on cost questions by auditors; and broaden the reach of current limitations on post-employment opportunities for our acquisition workforce, as well as limit the ability of acquisition workers hired by the government from the private sector to participate in certain acquisition activities.

I want to thank the chairman again for working with me by including two provisions that we requested that are both intended to strengthen the Federal acquisition workforce through better training and management. The first would require the administrator for Federal Procurement Policy to come up with a government-wide definition for ''acquisition workforce.'' This modification would help give Federal agencies a clear picture of the composition of their existing acquisition workforce and provide a baseline for the improvement of the human capital resource dedicated to the management of the acquisition workload. The second would make permanent the Acquisition Workforce Training Fund, which was first enacted under SARA, the Services Acquisition Reform Act, which I authored.

Last week our committee revised the introduced version of the bill by approving an amendment I offered to address the concerns I had with the bill's expansion of post-employment restrictions. While I wholeheartedly support the desire to promote integrity, transparency and accountability in government, I was troubled by certain provisions in the bill which sought to significantly expand current post-employment restrictions and curb the government's capability to take advantage of the valuable technical abilities and skills of former private-sector employees.

At a time when we need to be looking for ways to retain qualified acquisition personnel, too many of whom are approaching retirement age, while at the same time looking for effective ways to

recruit new qualified people, the introduced version tried to instead impose new restrictions on these Federal employees. These restrictions would have had a detrimental impact on the executive branch's ability to recruit and retain the brightest and the best personnel for the acquisition workforce, something we can ill afford.

Our amendment shortened the bill's 2-year post-employment restrictions on contracting officers to 1 year and provided for a waiver of the restrictions on the ability of acquisition workers hired by the government from the private sector to participate in certain acquisition activities. My amendment also shortened the duration of the activity restrictions from 2 years to 1 year. While this language goes part way toward addressing my concerns about the negative effects such restrictions have had on the Federal Government's ability to recruit, hire, and retain the skilled acquisition workforce, I continue to have the same concerns.

The bottom line is that there are too many good people working for this government for us to pass onerous restrictions based on the misdeeds of a handful of employees. We need to promote the natural churn of employees between the public and private sector, instead of trying to stymie it. We can't, on the one hand, bemoan the quality of contract management, while on the other, create more obstacles to getting the people that we need to do the job.

In addition to the changes we made in committee last week, I am pleased to see the text of the bill that is on the floor today includes the good work of the Committee on Armed Services. That committee made significant improvements and clarifications to the underlying bill. The Armed Services Committee toned down some of the rhetoric in the bill. For example, by changing terms like ''limiting the abuse of abuse-prone contracts'' to ''improving the quality of contracts.''

More substantively, the Armed Services Committee raised the threshold of the report on preliminary audits of contractor costs from $1 million to $10 million. Nonetheless, I remain concerned a report like this, even at the higher threshold and the limitation to significant contractor costs, still presents a distorted and incomplete picture of the management of cost-type contracts. Contract auditors are critical cogs in the management system. They write audit reports which are submitted to aid the contracting officer in making his final determination whether particular costs are reasonable and consistent with applicable law and the contract terms and, therefore, permitted or what we call ''allowable under the contract.'' It is the outcome of the oversight process, not just the first phase, that we should be reviewing. If we want an accurate picture of costs actually billed to the government which the contracting officer determined the government will not pay, the unallowables, then we might learn something. But that is not what this bill does. The bill would only burden agencies with another meaningless reporting requirement and, I might add, add fodder up here for Members to take this review and make something of it that is probably not accurate.

Each year our Federal contract professionals use the acquisition system to purchase almost $400 billion worth of goods and services, ranging from paper clips to advanced weapons system, from sophisticated information technology and management services to grass cutting and window washing. Recent reforms, culminating in our Services Acquisition Reform Act of 2003, have modernized the way the government does business with the private sector. No longer is our government laden with inflexible, timely, and costly acquisition systems. Legislative efforts over the past decade have provided many of the tools necessary for our acquisition professionals to get the job done.

Unfortunately, the Federal acquisition system has been under stress in recent years because of the extraordinary pressures of a shrinking workforce, combined with the unprecedented Hurricane Katrina disaster relief and recovery efforts, the enormous job of managing contractors who provide logistical support for our troops in Iraq, and overseeing the daunting task of building an Iraqi infrastructure. To no one's surprise, this strain has resulted in a series of management problems that have been exaggerated by the press and exploited by opponents of the system.

Nevertheless, the system has worked pretty well, and the vast majority of the government's acquisitions have been conducted properly. The problems have largely been the result of management difficulties exacerbated by an overburdened and understaffed workforce, combined with improper actions by a handful of officials.

Frankly, Madam Chairman, I don't think that controls, reports, procedures and restrictions in this bill will go very far in addressing the challenges that face us today. Reverting to the bloated system of the past, weighted down with a process-oriented system doesn't help the government acquire the best valuable goods and services the commercial market has to offer and our government so desperately needs in a timely manner. Reverting to the past, under the rubric of fraud, waste and abuse and cleaning up the system may provide flashy sound bites and play well back home, but it doesn't give us the world-class acquisition system that we need to compete in the 21st century.

We have put the current system to the test in some of the most difficult environments imaginable: Hurricane Katrina reconstruction and Iraqi logistics and contracting and reconstruction. The failures which occurred have been rooted in the inadequacies of management and implementation.

And yet the Rules Committee, in looking at the Armed Services Committee report and ours, took out the provision that had the 1 percent additional funding for some of the management and implementation dollars that could have gone into training.

As legislators, we should resist the temptation to micromanage our acquisition system based on unproven anecdotes of failure and misconduct. More controls and procedures will not remedy poorly defined requirements or provide us with a sufficient number of Federal acquisition personnel with the right skills to select the best contractor and manage the subsequent performance.

Why should we force the taxpayers and private entities to undergo unreasonable burdens so politicians can reap short-term gain at the expense of crippling an already overburdened acquisition system and workforce?

It is for these reasons, Madam Chairman, we find this bill has sufficient shortcomings. These shortcomings are shared by the administration in their statement on administration policy in the ITAA, and I will discuss those as the debate goes further.

Finally, let me just say, this country, over the years, has had the debate over what is the appropriate role of oversight, how much is too much. But we need an acquisition system that works. And sometimes we spend so much in our rules and regulations, making sure somebody doesn't steal anything, that they can't do much of anything else either; and we get a system that is burdened and that does not create the efficiencies that we need to more forward. Once again, one of the greater issues that divide the chairman and myself is our philosophies on contracting. But I want to just commend him for working with us on this bill to try to get to where it is today. I know this is important to him.

Madam Chairman, I reserve the balance of my time.

Mr. WAXMAN. Madam Chairwoman, I am pleased to yield 4½ minutes to a very important member of our committee, the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Madam Chairman, I rise today in support of H.R. 1362, the Accountability in Contracting Act, which I have cosponsored, because we have an obligation to be good stewards of taxpayer dollars.

I am simply appalled by the reports of pervasive waste, fraud and abuse in government contracting.

As chairman of the Subcommittee on Coast Guard and Maritime Transportation, I led a hearing back on January 30 on the U.S. Coast Guard's troubled $24 billion 25-year-long Integrated Deep Water Systems Project.

The project was supposed to modernize the Coast Guard's aging fleet, but a series of failures by contractors and poor oversight by the Coast Guard have wasted millions of taxpayer dollars instead.

In one of the more disturbing examples, the modernization of 49, 110-foot patrol boats was halted when the hulls of the first eight modernized boats cracked upon being sent out to sea.

In the Committee on Oversight and Government Reform and in the House Armed Services Committee, we have consistently heard reports of waste, fraud and abuse in Iraq contracting. Examples include: a report from the Iraq Special Inspector General, Stuart Bowen. He found gross mismanagement in a $75 million contract awarded to Parsons Corporation to build the largest police academy in Iraq. According to the report, the police academy was so poorly constructed that feces and urine rained from the ceilings into the barracks of students, floors heaved inches off the ground and cracked apart, and water dripped so profusely in one room that it was dubbed ''the rainforest.''

Investigators fear that, with its structural integrity in question, the academy is beyond repair, and public health concerns are being raised.

Unfortunately, this scenario is not unprecedented. In total, Pentagon auditors have identified $3.5 billion in questionable and unsupported costs in Iraq reconstruction contracts. For one Halliburton contract alone, its $16.5 billion logistic civil augmentation program, the Defense Contract Audit Agency, identified $1.1 billion in questionable costs.

Halliburton whistleblowers have shed light on the company's deceitful practices, reporting that the company paid subcontractors up to $45 for a case of soda and $100 for a 15-pound bag of laundry.

And the IG in the past has reported that Parsons, despite spending $186 million of a $500 million contract to build hospitals and health clinics, has barely gotten the project off the ground, with just 20 of the 142 clinics completed. The list of such atrocities is endless.

Last Monday we visited Walter Reed Medical Center for a field hearing of the Oversight and Government Reforms Committee's Subcommittee on National Security and Foreign Affairs to investigate reports that substandard treatment is being provided to our troops and veterans. There, too, contracting played a role.

It appears that wherever we find failures in government these days, contractors are sure to be involved. We have consistently been told by this administration that privatization of critical government functions would cost less. But instead it has been both costly and ineffective.

We need accountability in contracting. We need the Accountability in Contracting Act. This vitally important legislation would institute critical reforms, including limiting the length of non-competitive contracts, minimizing no-bid contracts, minimizing cost-plus contracts, ensuring public disclosure of justification for no-bid contracts, disclosing contractor overcharges, funding contract oversight, and closing the revolving door.

□ 1130

Mr. Chairman, I want to applaud you for doing such an outstanding job on this legislation. And I strongly urge my colleagues to vote for H.R. 1362, the Accountability in Contracting Act.

Mr. TOM DAVIS of Virginia. Madam Chairwoman, I yield to the gentleman from Tennessee (Mr. DUNCAN) for a unanimous consent request.

Mr. DUNCAN. Madam Chairwoman, I rise at this time to request unanimous consent to place a statement in the RECORD in regard to H.R. 1362.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Chairman, I rise in support of this bill, and I thank all who have worked to bring this legislation to the floor today.

I wish the bill went much further, but there are so many former Federal employees working for Federal contractors now, and so many present Federal employees who want to some day hitch on to this lucrative Federal gravy train, that the pressures against reform are tremendous.

Unfortunately, almost every Federal contract is a sweetheart or insider or friendship type deal. Almost all Federal contracts have at least one or usually several former Federal employees working for them.

Defense contractors are the prime examples. The International Herald Tribune had an article a year and a half ago describing what it called the revolving door at the Pentagon.

It said the top 20 defense contractors had hired over 300 retired admirals and generals during the 90s.

But this type of thing is rampant throughout the Federal Government.

Now I am not against the Federal Government contracting out many functions.

Usually, or often, the Federal bureaucracy is so wasteful and inefficient that Federal contractors can do things better or cheaper, even while making huge profits.

But some of the markups on contracts in Iraq have been mind boggling. I believe fiscal conservatives should be the ones most upset about some of the ripoff deals in Iraq.

Be that as it may, this bill helps highlight what has become a serious abuse of power, and abuse of the taxpayer, and this is a good start toward correcting this problem.

Mr. TOM DAVIS of Virginia. Madam Chair, I yield myself such time as I may consume.

The administration strongly opposes H.R. 1362, which would impose a new statutory ban on how the government uses acquisition personnel and would restrict the executive branch's ability to determine the appropriate funding for acquisition workforce functions.

That is what they say on their statement on administration policy. We also note that other provisions would impose burdensome statutory requirements that overlap with more efficient administrative efforts to strengthen the use of competition and reduce fraud, waste, and abuse.

The administration also feels that this legislation would limit the Federal Government's ability to tap technical expertise of Federal employees who are former contractor employees.

Frankly, we need the best and the brightest overseeing these contracts. As I take a look at contracts that have failed, a lot of it is due to the fact that we have not had appropriate oversight within the executive branch, and being able to get the best and the brightest is a very, very critical component to this. These restrictions, the administration feels, would lower the quality of procurement, solicitations, and analyses and would significantly harm the executive branch's ability to recruit and retain the experienced procurement officials from the private sector to close skill gaps and strengthen the overall capabilities of the acquisition workforce.

The administration also is concerned with the new requirement in the bill that would impose exhaustive quarterly reporting on every significant contract management deficiency at the contractor and subcontractor levels. This requirement will interfere with agencies' abilities to address and resolve contract performance problems in a timely manner.

The Information Technology Association of America in Arlington, Virginia says: The Association joined with other members of the Acquisition Reform Working Group in pointing out flaws in H.R. 1362, while saying that such significant legislation deserves the same light-of-day and careful consideration as do the major government contracts that the majority seeks to control.

They note that the title of the bill alone mistakenly implies a lack of accountability for government contractors under current law. Their president, Phil Bond, notes that ''to the contrary, there is already abundant chapter and verse to bring best value to government and to protect the interest of taxpayers. What is really needed is better application of existing regulations by a fully staffed professional Federal acquisition corps working with responsible government contractors.''

The letter also points out to committee leaders that many of the contracting issues now being addressed are ''symptoms of the shortages of manpower and training for adequate contract management.'' And they note that ''the government can't retain personnel and fill existing job openings in the acquisition workforce.''

They also joined the working group in taking issue with the sections of the bill regarding disclosure of government contractor overcharges. While agreeing that the proper use and oversight of government contracts is paramount, they dispute any need for quarterly reports to Congress on contract charges that are adjudicated by the Defense Contract Audit Agency, the DCAA. They note that these are unnecessary provisions and would force significant

investment and government resources and additional burdens on acquisition personnel. So the ITAA comes out against it.

They also note that another section of the bill that seeks more restrictive cost reimbursement-type contracts is also unnecessary and potentially harmful. They note that such contracts typically are used when uncertainties and risks are high, as in emergency situations, and development programs when it is not feasible to set a fixed price for the work required. The Federal Acquisitions Regulations, the FAR, already establishes detailed criteria for proper selection of contract type, including limitations on the use of cost-type contracts ''for use only when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to suit any type of fixed price contract.''

Madam Chairwoman, if we want to fix the Federal contracting system, the appropriate way is to hire, train, retrain, and pay well our acquisition personnel so that they have a toolbox of acquisition options to use to get the best deal for the government in every case, get the best value for the government. The taxpayers' dollars are at stake here, and their role ought to be to make sure the taxpayer dollars are spent most efficiently.

Adding burdens and layers and layers of regulatory reports do nothing to help that situation at all, and in many cases it can be very misleading as these burdens come out and we start taking out DCAA reports that have nothing to do with final adjudications of how these work. We already, by the way, have access to that information in Congress. What we don't have access to information is, and one of the things we would have liked to include, is to take final adjudications on costs that were deemed allowable and see what those costs are per contractor. That could have helped us in ferreting out which contractors are using these items. But this legislation does little to remedy those situations, unfortunately.

Madam Chair, I reserve the balance of my time.

Mr. WAXMAN. Madam Chairwoman, I recognize and yield to a very distinguished member of our committee, the gentleman from Illinois (Mr. DAVIS) for 3 minutes.

Mr. DAVIS of Illinois. Madam Chair, I want to thank Chairman WAXMAN for yielding.

I have always been told that one of the basic responsibilities of management is to effectively manage and account for the resources of the corporation, of the country, of the business. And, of course, in this instance we are talking about the United States Government; and all of us are shareholders, are stakeholders.

And I must confess that when I look at the record of our chief management team, we have come up woefully short. We have seen raw examples of waste, fraud, and abuse: no paper trails, no real rationale for why a contract or contracts were let.

And I want to commend Chairman WAXMAN for effectively laying out a bill of particulars against these current practices. The hearings that were held on contracting accountability were so revealing. As a matter of fact, much of the information that we saw, we just couldn't believe in terms of contracts that were let and nobody could tell what had happened as a result of the contract, what was the work that was done, who did it.

This legislation will limit the length of noncompetitive contracts, minimize no-bid contracts, maximize fixed-price contracts, require public disclosure of justification of no-bid contracts, disclose contractor overcharges, and promote ethics in procurement which is so important.

Every dollar spent by this Government should get maximum return for the shareholders. We have not seen that in our contracting policies and practices. And I commend the chairman not only for the oversight but also for the corrective action which we are about to take today by passing this legislation.

Mr. TOM DAVIS of Virginia. Madam Chairwoman, may I inquire as to how much time is left on each side?

The CHAIRMAN. The gentleman from Virginia has 14½ minutes; the gentleman from California has 17 minutes.

Mr. WAXMAN. Madam Chair, I would like to now yield 3 minutes to the gentleman from Maryland (Mr. SARBANES), a member of our committee.

Mr. SARBANES. I thank the gentleman from California for yielding his time.

I rise to strongly support H.R. 1362, the Accountability in Contracting Act, and I want to thank Chairman WAXMAN for his leadership in shepherding this bill through to the floor.

This will establish a structure that will rein in the abuses in government contracting that we have been having hearing after hearing about over the last few weeks. By putting emergency no-bid contracts into position where they are limited to 1 year, requiring agencies to develop plans to try to limit the number of those contracts, and also to promote fixed-price contracts instead of cost-plus contracts, we can promote much more transparency in the way these contracts are let.

One particular way in which these emergency no-bid contracts can be exploited came to our attention during a hearing, and that is, often the cost structure is not put in place for some time after the contract is let under emergency conditions. This allows the contractor to front-load a lot of costs that can be very difficult for the auditors to come in and question later. And so in limiting the number of no-bid contracts and emergency contracts that are let, we can discourage that kind of activity.

Madam Chairman, the administration is really engaged over the last few years in sort of a two-step shuffle that seeks to discredit good government, and bad contracting gives a bad name to good government.

On the one hand, what they have done with many of our Federal agencies is they have cut resources. That makes it more difficult for good Federal employees to do their job, and they point at that and then they say government doesn't work. And on the other hand, they have this impulse to outsource and contract things to the private sector in situations where that may not be warranted, without any accountability or oversight. And then, when things go wrong, they point to it and they say, see, government doesn't work.

There are going to be times when we have to outsource things, when we have to procure services from the private sector. At a very minimum, when we do that, we need to make sure that it is done with transparency and accountability. If we do that, we can restore faith in the notion of good and accountable government.

Mr. TOM DAVIS of Virginia. Madam Chair, I yield myself such time as I may consume.

Let me start by saying we all want to limit the use of no-bid contracts. These go back of course to the Revolutionary War, where the troops were marching and they needed food and there is one farmer around. And you can't go out to bid to see who is going to sell you the lowest corn; you take what is there. But they should be limited, because competition is the cornerstone of our contracting system.

Let me go through some of the assertions that are made in support of the bill and give my thoughts.

Assertion one is that spending on sole source and other noncompetitive contracts has more than doubled over the last 5 years. And although spending has increased significantly over the last 5 years, it is due largely to 9/11 and Katrina. The total dollars competed is a percentage of total dollars available for competition. It has remained relatively constant between fiscal years 2001 and 2006, between 61 and 64 percent, according to the FPDS.

This notwithstanding, the Office of Federal Procurement Policy Administrator will be seeking to help in the leadership of the CAOs to reinvigorate through administrative means the use of competition and related practice for achieving a competitive environment. The role of competition advocates should be revived, with special emphasis on planning and execution in the management of hard-to-task and delivery orders.

There is an assertion that over the last 5 years the administration has jeopardized taxpayer interests and squandered hundreds of millions of dollars by giving private contractors exclusive control over huge portions of the reconstruction efforts in Iraq.

Frankly, DOD is giving increased attention to contingency contracting, including training for acquisition and program personnel and standard operating procedures. The Department of Defense and other agencies have recognized the need to increase the number of prepositioned, competitively awarded contracts to address contingencies. Also, the Department of Defense has several audit agencies including the Defense Audit Agency and Defense Contract Management Agency working in theater to monitor the contracts and resources.

□ 1145

Another assertion that comes from the other side is that this administration has justified the award of lucrative sole source contracts by citing urgent and compelling needs but then allowed these contracts to continue years after the emergency has passed.

The Chief Acquisition Officers Council, the CAOC, has established an Emergency Response and Recovery Working Group to improve access to information that can assist the acquisition workforce in planning for and addressing emergencies. The working group created a community of practice Web site, accessible at http://acc.dau.mil/emergencyresponse, so that agencies can share information about their policies and procedures, their best practices, their training resources, and other information of interest. For example, the site provides a link to the Emergency Acquisition Field Guide developed by FEMA so other agencies can learn about and adopt, as appropriate, practices employed by FEMA for performing specific assignments or functions in an emergency acquisition environment.

The emergency response and recovery Web site includes a list of interagency contracts that offer the types of supplies and services that were required by agencies to address disaster recovery for Katrina and 9/11, such as communications equipment, fuel and transportation, pharmaceuticals, portable shelters, generators, tarps, bottled water, and emergency meals. The GSA has established a disaster relief and emergency preparedness homepage that provides a quick reference guide to offerings on its Multiple Award Schedules that can be suitable for addressing readiness, intervention, counteractive solutions, or post-emergency logistics.

Another assertion is that cost reimbursement-type contracts leave the taxpayer vulnerable to wasteful spending by providing contractors with little or no incentive to control costs. Between 2000 and 2005, the use of this type of contract has risen 75 percent.

Frankly, according to the FPDS again, the total government spending on contracts has increased considerably, roughly at the same percentage as the increases in cost-type contracts stated above. From fiscal year 2000 to fiscal year 2005, total spending increased from $219 billion to $380 billion.

But cost-type contracts play a useful and necessary role in contracting when uncertainties involved in contract performance don't permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract. And the contractors get caught on these many times when they move ahead and they estimate it to be one thing and then the needs of the contract change and they end up having to advance costs. So cost-type contracts in these types of situations are proven useful, but they are only good when they get the appropriate oversight from the procurement officers. And we don't address that underlying issue in a significant way in this legislation.

Agencies such as NASA rely on cost-type contracts for critical R&D work, such as planetary science and exploration missions, systems development operation support in physical engineering, and life sciences. In the early 1980s, there was a push towards fixed-price contracts for R&D to address failed major programs, cost overruns. But ultimately Congress passed legislation requiring a secretarial approval for contracts over $25 million. DOD regulations preclude award of a fixed-price contract for a development program unless the level of program risk permits realistic pricing and the use of a fixed-price type contract allows an equitable and sensible allocation of program risk between the government and the contractor.

Madam Chairman, I reserve the balance of my time.

Mr. WAXMAN. Madam Chair, I yield 4 minutes to the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. Madam Chair, I want to, first of all, thank the gentleman for yielding.

I rise in strong support of H.R. 1362, the Accountability in Contracting Act. This is contract reform legislation that was reported favorably out of our Oversight Committee by unanimous consent, and I think that speaks to the merits of this bill. As a result of the hard work of Chairman WAXMAN and Ranking Member DAVIS, this is a good first step in bringing accountability to contracting practices in our government.

By minimizing the use, as others have said, of the abusive no-bid contract practice, we will reintroduce competition into this contracting protocol used by our government. As well as limiting the use of cost-plus contracts, we will strengthen the reporting and disclosure requirements for contract overcharges and increase funding for contract oversight personnel. H.R. 1362 will address the glaring weaknesses in our Federal procurement system that have caused considerable waste, fraud, and abuse of American taxpayer dollars.

The need to reform Federal contracting law has been with us for some time and demonstrated, I think, glaringly during our series of contracting hearings in the House Oversight Committee, as we continue to examine a variety of misguided and poorly managed, poorly designed, and extremely costly Federal contracts that have been issued.

In the area of Iraq reconstruction, where we have spent a lot of time, we have learned from William Reed, the Director of the DCAA, the Defense Contract Audit Agency, of more than $10 billion, 10 billion with a ''b,'' in questioned and unsupported costs related to our Iraq reconstruction and troop support contracts. In addition, based on updated data provided to the committee by DCAA, we know that Halliburton's three massive cost-plus contracts alone are the source of at least $2.7 billion in questioned and unsupported billings. And until recently, unfortunately, we have not had auditors on the ground in Iraq. The DCAA did not have contractors on the ground to review these contracts. They were auditing these contracts from Alexandria, Virginia. We have changed that process and put people on the ground.

In the area of homeland security, we recently examined the Department of Homeland Security's $24 billion contract to modernize the Coast Guard's aging fleet and the $30 billion SBInet contract to design and implement a modernized border security plan. Based on thousands of pages of documents provided by DHS to our committee, we have learned that the Department's oversight of these massive contracts is severely limited by what they call the ''prime integrator'' contracts. These prime integrator contracts vest the government oversight responsibility in program design and construction to contractors to do this very work. In addition, we came to find out the Department had actually contracted out oversight functions that it had retained under the contract terms.

This is a good first step. And I want to give great credit to Chairman WAXMAN for his good work and also Mr. DAVIS for building compromise in this, and I think that the American taxpayers will be better served by the result of the work of these two gentlemen.

Mr. TOM DAVIS of Virginia. Madam Chairman, I reserve the balance of my time.

Mr. WAXMAN. Madam Chair, I would like to yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Madam Chairman, I thank very much the gentleman's yielding and for his extraordinary leadership on protecting taxpayers' money by better oversight of our contracting policies. And I congratulate former Chairman DAVIS and Chairman WAXMAN on the Accountability in Contracting Act that we are passing today.

I feel so strongly about it because if we really manage our dollars better,

then we will have more dollars for the services that we need for our people. And I urge all of my colleagues and all of my constituents and really the listening public to read this excellent report that has come out from the Oversight and Government Reform Committee on ''Dollars, not Sense: Government Contracting Under the Bush Administration.'' And it shows that sole source contracts have absolutely ballooned. They have grown dramatically from $67 billion in 2000 to over $145 billion in 2005. These are contracts that only one person gets. It is as if I handed you a lollipop. It is giving someone billions and billions of dollars, and I believe there are many talented businesses, many talented individuals in this country that should deserve the right to compete for these contracts.

This bill makes it easier for them to compete and, I believe, will save taxpayers dollars by the billions. It says if we give Halliburton or some other company a sole source no-bid contract worth billions and billions of dollars, then they have to tell us why we should give it to them. They have to file a document called the Justification and Approval Document. That is the least that we can do for the American taxpayer, to build in some transparency and some accountability. It also has many other important reforms in it.

But I must say of all the areas of mismanagement, contracting may look dull, but it is billions of dollars that if we were better stewards, we would have those dollars for education and health care.

I commend the chairman for his leadership on cracking down on this waste, fraud, and abuse and really shoddy mismanagement that has ballooned into billions of sole source contracts.

If you read this report, it is really chilling.

Mr. TOM DAVIS of Virginia. Madam Chairman, I reserve the balance of my time.

Mr. WAXMAN. Madam Chair, I yield 1 minute to the distinguished majority leader of the House of Representatives (Mr. HOYER).

Mr. HOYER. Madam Chairman, I thank the chairman for yielding. I thank Mr. DAVIS for his work on this legislation. And I rise in strong support.

I want to commend the chairman on the Committee on Oversight and Government Reform, Congressman WAXMAN of California, for his hard work and leadership on the five, not just this bill, but on the five government accountability and transparency bills considered on the House floor this week. This has been a very significant week for transparency, openness, and accountability in government, and I commend the chairman for his actions and the committee for its.

It is no mere coincidence that the four bipartisan bills we have considered so far have passed with an average of 340 votes, including on average 112 Republican votes for every one of these four and now fifth reform bills. So there is not a narrow partisan agenda here. What the committee has been bringing to the floor are bills broadly supported because we know that transparency and accountability in government have not been the norm. We need to restore the public's faith in its government.

In fact, there is a clear demonstration of the new Democratic majority's commitment to change the way business is done in Washington, to restore accountability for government practices and congressional oversight and to reach bipartisan consensus when possible. The four bills included measures to increase public access to government information by strengthening the Freedom of Information Act. After all, this information is gathered by taxpayer dollars.

To provide whistleblower protection to Federal workers who specialize in national security issues. To nullify an executive order issued by President Bush giving former Presidents and Vice Presidents broad authority to withhold presidential records or to delay their release indefinitely. The public has a right to know, and this legislation facilitates the redress of that right.

Lastly, to require the disclosure of donors to presidential libraries so there cannot be secret, very large contributions to Presidents before they leave office.

It should be noted that the first three measures passed overwhelmingly despite veto threats from the White House that apparently does not want openness or accountability or transparency.

All four bills are reasonable, prudent, and consistent with our Nation's democratic values and openness and accountability.

The legislation before us today, the Accountability in Contracting Act, is equally important. In short, this legislation would instruct Federal agencies to minimize the use of no-bid contracts. Why? Because we want lowest prices. How do we get lowest prices? By competition. That is the free enterprise system. This bill says let us pursue the free enterprise system.

It would promote the use of cost-effective, fixed-price contracts and limit the duration of no-bid contracts awarded in emergencies to 1 year.

This bill also would require the public disclosure of the rationale for using no-bid contracts and require agencies to report to Congress on contracts on overcharges.

□ 1200

Madam Chairman, it is unfortunate, but true, that problems in government contracting have arisen again and again during the last 6 years, and indeed before that, from the $2.4 billion, however, in no-bid contracts for Halliburton, that soon-to-be Dubai company based in Dubai, to the failed contracting in the aftermath of Hurricane Katrina.

Furthermore, Madam Chairman, it should be noted that spending on no-bid contracts has more than doubled under the Bush administration, even as hearings have exposed a pattern of reckless spending, poor planning and ineffective oversight by Federal contract officials.

This legislation, like the other four bills brought to the floor by Mr. WAXMAN considered this week, will help us begin to restore accountability and transparency to government. The American people expect and deserve no less.

This is a new day in this new Congress. The days of hear no evil, see no evil, speak no evil are over. This Congress embraces its constitutional responsibility to conduct real, meaningful oversight, as well as our value of openness and transparency.

Two days from now is St. Patrick's Day. The Taoiseach, the Prime Minister of Ireland, will be at lunch just a few feet from here any minute. Honor St. Patrick; vote green on this accountability legislation.

Mr. TOM DAVIS of Virginia. Will the gentleman yield for just one comment?

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

Mr. TOM DAVIS of Virginia. Let me just note that on the bills on the Presidential records, the library, the whistleblowers, Mr. WAXMAN and his staff have worked very well with us. And the record should show that the reason we got such big bipartisan majority was their willingness to bend back and our ability to work back and forth. And I want to, again, commend him.

We have other differences on this bill which is close to my heart that I think he understands and we understand; but even here they have worked with us. And I think the record should note that they have gone out of their way and we appreciate that.

Mr. HOYER. Reclaiming my time, I want to say that I spoke a lot about accountability and the lack of accountability in the last Congress, and in my opinion, the two Congresses before that. The chairman of the Government Reform Committee was one of the few chairmen, in my opinion, in the last Congress who undertook some oversight responsibility, and I commend him for that. I think we need to go further; we are going further; but I commend him for his recognition that oversight is a critical responsibility of this Congress, just as the referee is a critically important component of any football game or basketball game.

So I thank him for what he has done in the past. I thank him for his cooperation in working with our chairman on the three bills that we passed this week so far, and I would hope that we can pass this bill. If we make it better in conference, that's fine; but this is a good bill and an important bill, and I thank the gentleman for his efforts.

Mr. TOM DAVIS of Virginia. I yield myself 1 minute to note again the reason for the rise in sole-source contracts has been emergencies like 9/11 and Katrina, under which the exigencies which government is faced with at that point to meet in a timely manner doesn't allow you to go out in these cases for a wide swath of bids. But I think we share a common desire to bring more competition into government contracting.

I also want to note that at our committee hearing on February 8, the Inspector General, Richard Skinner, testified that the government's greatest exposure to fraud, waste and abuse is undoubtedly in the area of procurement. As already pointed out by members of this committee, he notes, the problem is not a new one. It dates back to the Federal Government's nearsighted policies in the early 1990s to reduce the Federal workforce. While acquisition management capabilities were being downsized, the procurement workload was on the rise.

I hope to continue to work with the gentleman as we focus on this acquisition workforce and give them the tools they need.

Mr. WAXMAN. Mr. Chairman, I am pleased now to yield 2 minutes to a new member of our committee, but who has been a valuable member and raised a great deal of concern about these issues, the gentleman from Connecticut (Mr. MURPHY).

Mr. MURPHY of Connecticut. Thank you, Mr. Chairman.

I rise today to simply thank Chairman WAXMAN and many of his compatriots on the other side of the aisle for giving us this week.

If you want to know why there are so many new Members in this Chamber today, it is that there have been a lot of people in this country who have been waiting for this week.

You know, we sit around and we wonder sometimes why we feel this disconnect between the people out there in the American public and their government. Well, there is a sense on their behalf that the government somehow exists separate from them, that it is an entity that is wholly divorced from what is happening out in the real world, and that government has ended up setting its own rules that don't really have applicability to their own lives and how they manage their own existences.

And I think the issue of how we have gone about contracting, whether it be for this war or for other domestic and foreign endeavors, is a perfect example of how we have broken down that contract between government and its people. They look to the $100 billion in no-bid contracts, many of which going to companies that didn't need any more help. They look at Halliburton and other companies like it get rich while local programs that help people in the communities, middle-class working families with health care and education wither on the vine. And I think they look with a renewed sense of faith and optimism to this House, not just this week, but in how we have gone about keeping their money and regaining their faith.

It started on the first day when those of us who got sworn in were lucky enough to cast a vote in favor of new budget rules that will make sure that we keep better track of the money that comes in and don't rack up record deficits. And it continues today, Mr. Chairman, with a renewed commitment to responsible contracting.

I am happy to be standing next to my new chairman, Mr. WAXMAN. I am happy to be here today in our process of restoring that faith in the government that our people have lost.

Mr. TOM DAVIS of Virginia. I would yield 2 minutes to the gentleman from Ohio, a member of the committee, Mr. TURNER.

Mr. TURNER. Thank you, Mr. DAVIS.

Yesterday I was on the House floor as part of the discussion concerning the Freedom of Information Act amendments and as we discussed the issue of the dedication of this week of open government.

Open government is an important issue because it is one that we all know that by being dedicated to information being available to the public, we can hold our government accountable. Unfortunately, we have an irony once again happening on the House floor, and that is that today's bill that we are considering is one that went through committee, Government Reform Committee, which I serve on, and the Armed Services Committee, which I serve on, and went through hearings where there were amendments that were provided and Members were able to participate. But this bill today is not the bill that came before those two committees. It has been amended in some backroom deal that we are all decrying here on the House floor, with language that has not been through the committee or the subcommittee. If the public were looking at this bill as it went through those two committees, they would not find that this language matches that which went through the committees. Certainly, as we dedicate ourselves to open government, we should dedicate ourselves to a process where the bills that are here are available and open to the public and the members of these two committees.

Mr. TOM DAVIS of Virginia. May I inquire as to how much time I have remaining.

The Acting CHAIRMAN (Mr. HASTINGS of Florida). The gentleman has 6½ minutes remaining.

Mr. TOM DAVIS of Virginia. I yield 5 minutes to the gentleman from California, the ranking member of the Armed Services Committee, Mr. HUNTER.

Mr. HUNTER. I thank the gentleman.

I am going to speak a little bit during our section on this bill, but I just wanted to invite the majority leader, Mr. HOYER, to come back down to the floor and to talk a little bit about the statement that he just made to the effect that there hasn't been any oversight over the last several years.

I am reminded of our teams that left the Armed Services Committee, went out to the companies that were up-armoring Humvees, started to move that schedule to the left, that means getting those Humvees quicker to the troops; and when they were told that there was a steel shortage, moving to the steel mills, finding out what the problem was. When they were told it might be a problem with too many shifts or not enough shifts with union employees, meeting with union employees, getting those shifts put on line, getting that steel produced, getting it to the Humvee factories and moving it out to the field.

I am also reminded of the times when we moved ahead quickly with what the gentleman has criticized as sole-source contracts when our troops in the field didn't have any dismounted jammers. That means the ability to stop an electronic signal that fires off a roadside bomb that hurts our troops. This committee moved quickly to give the Secretary of Defense the ability to waive all acquisition and competition regulations so you could do one thing, get equipment that protects our troops to the battlefield quicker. And we did that in terms of the first dismounted jammer that we produced, something that a marine or a GI could carry on a patrol that would keep a bad guy from detonating a roadside bomb that could kill him or his squad. Using this new system instead of the old system, we were able to, R&D, build in the United States and move into the warfighting theater 10,000 jammers for our troops within 70 days.

Now, the system that the gentleman is wedded to and loves so much, the slow system, the system in which you have interminable appeals, in which you have competitions that take months and months, sometimes years, is now working on the next generation of portable jammer. It has been a year, and we don't have that jammer fielded yet for troops in a portable fashion.

So I would just say to the gentleman who has been criticizing the contractor corps, 389 American contractors have been killed in this war so far, in this war against terror. They are great people, probably some of them from the gentleman's district. And the idea that he is trying to offer to this body, which I think is smart enough to reject that idea, that somehow there was no oversight in the theater, and by making these fairly minor changes, and these are fairly minor changes, we marked them up, they are nips and tucks in the oversight system. Somehow the judgment of the thousands of people who oversee our contracts around the world will now go from bad to good. That is obviously in great error. In fact, the same people are in place administering contracts; the same people are risking their lives in Iraq and Afghanistan to

support our warfighters. And by and large, they are doing an excellent job.

And we are going to get into later, into the added restrictions that the majority has placed on people who are participating in contract decisions, participating in a broad category called ''administering'' and the vagueness that attaches to that that might make a person civilly liable if they walk into the wrong meeting at the wrong time and they are ultimately prosecuted or fined civilly for making that mistake.

You know, we have great members of our staffs in the Armed Services Committee and indeed in all the committees in the House of Representatives. We shouldn't put a more onerous burden on the people that work in the rest of government than we would put on our own staff.

And I would say to my colleagues, one thing you have got to have when you have penalties, whether they are civil or criminal, that attach to action, you better define the action and you better define it clearly enough that staff members know exactly what they are doing and know exactly where the line is so they don't cross that line.

And let me just finish by saying that the gentleman from Maryland (Mr. HOYER), who I consider to be a friend, has done a real disservice to the great men and women who serve in a contracting capacity for this country by implying that somehow they haven't been doing their job and somehow the committees of this Congress have not been doing their job in this war against terror.

I thank my friend from Virginia for yielding me a couple of minutes.

Mr. WAXMAN. Mr. Chairman, may I inquire how much time is left on each side.

The Acting CHAIRMAN. The gentleman from California has 5½ minutes, and the gentleman from Virginia has 1½ minutes.

Mr. WAXMAN. Mr. Chairman, I yield myself 5 minutes.

I want to acknowledge the fact that Chairman TOM DAVIS did more as the chairman of our committee in doing oversight than any other Chair in the House. We did do a lot, but the other committees did not. They didn't want to do oversight. It was as if the Republican leadership of the House decided that if they did too much oversight, they might find embarrassment to this administration.

Well, it looks like this administration would now like to keep us from getting embarrassing information about them because they don't like this bill. Oh, we have to give too many reports to Congress; there has to be too much transparency; it is burdensome to have to be open about these contracts. But the fact of the matter is we are spending an incredible amount of money on these outside contracts. And from what we have seen, our taxpayers are not being protected from waste, fraud, abuse and corruption. Just look at what went on in Iraq. Halliburton had contracts for logistical purposes, to restore oil. We were told we needed them to get a contract without any competition because they are the only ones, this is what we were told in the very beginning when we asked why did we get this contract in Iraq with no other competition.

□ 1215

We were told, Well, they are the only ones who know how to put out the oil well fires when we go to war. And so they got a contract without competition on a cost-plus basis even though they had a history of overcharging the taxpayers. And then later we found out that they didn't do anything about putting out oil well fires in the first Gulf war; it was Bechtel, not Halliburton. We were told it was civil servants who had done it in giving this award to the contractor. But then we found out it was the political people who did it.

Halliburton was given special treatment. Other contractors were given special treatment by not having healthy competition. Competition benefits the consumer. When the government is the payor, the consumer, we are deprived of what market forces can bring. So these contractors got no-bid contracts.

I made a proposal on the House floor when we had one of these appropriations bills to say that if any contractor overcharges us $100 million or more, they ought to be barred from future contracts. The chairman at that time of the Armed Services Committee stood up and said, We can't have an amendment like this; we haven't even held hearings on anybody who has charged us over $100 million.

Well, why hadn't they held hearings? Why didn't the Armed Services Committee hold hearings?

The fact of the matter is in recent years, we have had an enormous outpouring of money spent in Iraq, in homeland security, in dealing with Hurricane Katrina, and we have seen the same mistakes over and over again: No-competition contracts; cost-plus contracts.

We have seen what the result has been: Wasted taxpayer dollars. That is why this legislation has been put together. It is a bill to require that if there is an emergency to give a contract, give it. But then have bidding within a year.

Gasoline prices charged by Halliburton were considered highway robbery. Parsons built just a handful, 20 of the 142 health clinics they were paid to build. Human sewage leaked out of the roof of a police academy.

In Hurricane Katrina, they subcontracted and subcontracted and subcontracted, and finally they paid a guy with a truck to come and take away debris. Every markup of every one of those subcontractors was passed on to the taxpayers.

We have had a contract to build a border for our homeland security that cost us billions of dollars that didn't work. We had a contract to help the Coast Guard get state-of-the-art ships, and they didn't meet standards. We need reform in this area.

If that is called micromanaging when we want transparency, this is the type of reform we need. We need something we didn't have before: A lot more oversight. We have got to keep people honest.

I am shocked when I hear conservatives say they care about taxpayers' dollars, and then don't want competition. I am shocked when they say taxpayers' money is being used wisely, and then we find it is being thrown away.

I urge support for this bill.

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

Mr. TOM DAVIS of Virginia. Mr. Chairman, we fully support transparency and accountability in decisionmaking, but we need to remember we are asking for all of these audit reports that are only advisory in nature. They are not disposition. These are questioned costs, and contracting in a war zone or in an emergency often lacks appropriate documentation. But these are allowable costs.

I think to provide those to Congress not only gives you too much information, a lot of it can be misleading and can be misplayed.

Knowing that the results of an audit will be provided to Congress during the negotiation and the resolution process, which is what they are asking for, could unduly influence the impact the audit advice may have on the contracting officer's administrative determination. This inhibits their authority to appropriately and effectively resolve contracting issues using all of the relevant information available to them. This could also have the unintended effect of increasing the number of contract disputes.

But I know my colleague feels with a passion that we need to move ahead and do something of this order. I look forward to working with him on legislation on the acquisition workforce which we don't touch in this area. This legislation I think falls short of the promise, but I appreciate the willingness he has shown to work with us. We will address further issues later in our motion to recommit.

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

The Acting CHAIRMAN (Mr. HASTINGS of Florida). The gentleman from California has 30 seconds.

Mr. WAXMAN. Mr. Chairman, legislation is an organic process. We have negotiated with the minority. We have strong bipartisan support for this legislation. The bill was referred to the Armed Services Committee. They gave us good recommendations which have been adopted unanimously by that committee and incorporated into this bill.

The gentleman from Ohio complained there was another change made. There are always changes going on to make

the bill better. It will get even better as we move it through the process. Let's pass the bill and work together. Let's stand up for the American taxpayers of this country.

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

The Acting CHAIRMAN. The gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) each will now control 10 minutes.

The Chair recognizes the gentleman from Missouri.

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

Mr. Chairman, I rise in support of H.R. 1362, the Accountability in Contracting Act. This bill amends title 10 and 41, United States Code, and establishes other new statutory requirements to improve the quality of government contracts, increase government contract oversight, and promote integrity in contracting.

The House Armed Services Committee approved this legislation on a bipartisan vote of 53–0. Our committee has worked for decades to improve the contracting process within the Department of Defense.

Over this time, the committee has passed numerous bills, including both major additions to contract law and focused revisions. We utilized the experience gained in these legislative efforts to formulate our recommendations in this bill. I am confident that this is a good product that will improve contracting and save the taxpayer money.

Right now, American military forces are deployed throughout the world in support of the war on terrorism as well as other military operations, including Iraq. These contingency operations have generated a number of very large contracts, the Department of Defense has expended billions of dollars on support and reconstruction contracts that have been awarded, administered and overseen in the most challenging of conditions.

H.R. 1362 would help address these challenges by empowering the heads of the military departments and the defense agencies to ensure the proper use of a variety of contract types, both competitive and noncompetitive, and by empowering Congress to oversee such contracts. It also ensures continued faith in the integrity of the procurement system.

I thank my friend and colleague, Chairman WAXMAN, for introducing this legislation and bringing it to the floor today. And I especially want to thank my friend and partner on the Armed Services Committee, Mr. HUNTER, who is the ranking member and the former chairman, for working so closely with us on this legislation. I thank him for that.

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

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

Mr. Chairman, I have given a fair amount of consideration to this bill, H.R. 1362. I have a couple of observations to share with you.

First, I am very proud of the work that the Armed Services Committee has done with respect to this bill to craft what I consider to be a better bill. I want to thank the chairman, my good friend from Missouri, Mr. IKE SKELTON, for making sure that we participated in this markup and holding the markup of H.R. 1362.

I had serious concerns about the original bill as reported out of the Committee on Oversight and Government Reform, including a number of provisions that, through amending title 10, U.S. Code, and other procurement regulations, would have had the effect of preventing the Department of Defense from serving warfighter needs in the most expeditious manner possible. That is an issue that I spoke to just a minute ago in my exchange with Mr. WAXMAN.

As my colleagues from the Armed Services Committee know, this committee has given a great deal of attention to matters pertaining to acquisition reform. This has been especially true during wartime as our committee has worked hard to ensure that the brave men and women serving our country receive what they need when they need it as they deploy to Iraq, Afghanistan, and other theaters of operation.

At the same time, we have been vigorous advocates for competition and cost control measures. I firmly believe that the Armed Services Committee is best suited to properly balance the need for improving accountability in defense contracting while at the same time ensuring that the Department of Defense can carry out its duties to the warfighter. I am pleased that the chairman agreed to hold an Armed Services Committee markup of this bill. In continuing its rich tradition of deliberation and robust oversight of matters within its jurisdiction, the committee produced a higher quality piece of legislation.

I supported Chairman SKELTON's mark because I believe the mark remedied the most serious deficiencies of the base bill and was truly a bipartisan measure. The Armed Services Committee mark encouraged competition and cost controls while protecting procurement flexibilities important to the national interest.

Secondly, it provided Congress with additional tools for oversight and reinforced standards of integrity widely held by the dedicated men and women of the defense acquisition workforce.

But, unfortunately, we are not here today to vote for the Armed Services Committee mark. We are not even here to vote for the Committee on Oversight Government Reform mark, which leads me to my second set of observations.

We are here today to vote for a piece of legislation that was not voted out of any committee. Those who would say this bill received unanimous support in two committees would not be telling it as it is. The full truth is that the Speaker wanted to put a rush on this bill so she could say Congress did something about contract reform. It was introduced late one night, and in 24 hours it was being voted out of committee. In two more business days a markup was scheduled in the Committee on Armed Services. Late that night, additional text was added that changed the bill yet again, and I think in a potentially dangerous way.

But no member of Oversight and Government Reform or Armed Services got to vote on those changes. Instead, the language simply appeared out of nowhere and the rule for H.R. 1362 let the new bill move to the floor.

What would the new language do? It is hard to say because the text is subject to broad interpretation, which is precisely what concerns me. One thing can safely be said. It is ironic that the original bill would have required agencies to hire thousands of additional personnel, but at the same time this new language would presume those personnel are dishonest and would attempt to restrict their decisionmaking ability or their ability to seek further employment.

I am all for accountability and performance in Federal contracting. I am likewise for accountability and performance in the legislative branch. Frankly, I am disappointed in the final product of this bill, and I am referring to the parts that were put in after we marked up our portion of the bill.

Mr. Chairman, let me go right back to Mr. HOYER and Mr. WAXMAN and their assertion that somehow we are leaving a period of no oversight, and they have brought now oversight to the warfighting process and accountability for the contracts that are let pursuant to this war against terror. That is absolutely not the truth.

As anybody knows when you are fighting a war, you need to move quickly. I use once again the example of the jammers that we got out the door under a new waiver strategy where you waive all acquisition regulations. You go in and build something that the troops need immediately on the battlefield. You don't give a 6-month appeal to the folks that lose the competition. You don't give small business set-asides because there is one thing you don't have, you don't have time.

When we have troops that are experiencing bombs on the battlefield that are detonated remotely, you have to move quickly to get the jammers that will jam that electronic device. When you have new explosives that are penetrating your Humvees, you have to get steel on the sides of those Humvees quickly.

□ 1230

When you are moving a military force down the road and you have to get fuel to that force, whether it is in movement or in base, you have to move quickly. You cannot have 6-month appeal periods. You cannot have buyers'

forums that take months to set up. You have to move quickly.

Now, when you have time, you want to absolutely have competition, and I can just tell my colleagues that that is always in my interest to have competition, get the best buy for the buck, and we have had a number of forums incidentally. We introduced the Challenge Program where any company that could come in and say, I could make a better tire for the Humvee than the incumbent, or I can make a better windshield or a better engine, that guy or lady has got the right to go in and challenge the incumbent company that has the present contract and show how they can do it cheaper or make something that has better warfighting capability. We introduced that legislation. That is called the Challenge Legislation.

But let us not mix that up with this idea that somehow you can have competition on every single aspect of the battlefield, and when you need a new jammer to stop roadside bombs, you go out and you start a month-long search, and then you have a 6-month competition, and then after the award you have a 6-month appeal, and by that time you are ready for the next war. You are not even relevant to the situation that is hurting your young men and women on the battlefield right now.

So there is some good substance in this bill, and I like it, but there is a lot of rhetoric. There is a lot of worthless, political rhetoric that preceded this bill, and I hope that the American people will not be snagged by that one. There are times that you have to move quickly.

I am reminded of one contractor that came back. One of the contractors who was not one of the 389 who has been killed in this war, and he showed me a picture of a crater, of a mortar crater. He said, That is where I was standing 5 minutes before that mortar landed. He said, I do not care how much you award this contract for, I am not going back to that dangerous AO.

Let me tell you, there are a lot of people who do go back time and time again. They are good Americans. They are honest Americans, and they are the same folks carrying out the contracting and administering the support of our Armed Forces who were there 6 months ago. The idea that somehow they have been crooked up to now, that now they are going to be straightened out by Mr. HOYER and Mr. WAXMAN is absolutely outrageous.

So having said those gentle words, I look forward to the continued discussion. Mr. WAXMAN has taken the floor. I would be happy to yield to Mr. WAXMAN if he has got a rejoinder.

Mr. WAXMAN. Mr. Chairman, well, I do. I am surprised you are taking the position you are taking in trying to make it personal but——

Mr. HUNTER. Let me just take my time back. I am not making it personal. Mr. WAXMAN made a statement, I am talking. Mr. WAXMAN, I will let you respond to this. We are not making it personal.

What I am telling you is that there are exigencies in the battlefield, and you got this from your own leadership, gentlemen like Mr. MURTHA who said you cannot have these long delays in awarding contracts and have this vigorous oversight period; you cannot have that hold up a battlefield situation. You do have to award sole-source contracts, and you have to award them to people who can move very quickly and get things done. That is my point.

The idea that we are supposed to stop that or that we have not exercised any oversight is simply not accurate. There is no personal animosity toward you as a fine Member of this body, but those statements are not accurate, and I yield to the gentleman.

Mr. WAXMAN. I think the gentleman is misinformed about what is in the legislation because we do permit under exigent circumstances a no-bid contract to be awarded. We understand there are times that there are emergencies, but we ask that after a year that the contract be put out to bid, that there be competition at least after a year. I see nothing wrong with that. It makes a lot of common sense to me, and you are arguing that we are not responding to the emergency situation when we do.

Mr. HUNTER. If the gentleman will allow me to say this, I think that that is a good provision. In fact, we supported that provision in the Armed Services markup.

Let me tell you a provision I do not support, and maybe you can help us with this. You refer in the revolving door that says that a person cannot take a job with a company in which he has administered——

The Acting CHAIRMAN. The gentleman's time has expired.

Mr. HUNTER. Would the gentleman allow me to have a minute of his time so I can just offer this one point?

Mr. SKELTON. Mr. Chairman, I will be glad to yield 1 minute to the gentleman.

Mr. HUNTER. I thank the gentleman. Mr. WAXMAN, the two provisions that were put in after the markup, the one that talks about a person who participates in a meeting as a senior staff, that means if a person walks in a room and if they are involved in a discussion, they could be subjected to massive civil penalties at a later time if there is a contract awarded.

I would simply say that I think in areas where you have civil penalties you have to have great clarity, and I have not seen a definition of ''senior staff'' or ''senior participants'' in DOD, and I think that that is a real problem. I think it is a problem of vagueness and one that could keep people from entering the civil service in this role and in this capacity.

Mr. WAXMAN. What this provision provides is if somebody is personally and substantially involved in that contract, they should not be then going out and working for the contractor. I just think that is improper. There ought to at least be a cooling-off period. We do not think they can never go work.

Mr. HUNTER. Mr. Chairman, let me just rejoin to that. We have looked up ''personally'' and ''substantially.'' That could involve standing there in a room and giving advice. So that can be just a person giving advice which could expose them to a $50,000 civil penalty, from what I have seen.

I thank the gentleman for yielding.

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

I first wish to thank the gentleman from California and all the members of the Armed Services Committee that worked on this legislation that recommended its passage by a 53–0 vote, and I was very pleased and proud of that. Of course, it was changed to about 1 percent as opposed to 99 percent that we approved in our committee.

The change merely clarifies the application of post-employment restrictions to senior level officials who are involved with procurement. It is a minor change. The language was shared with the minority well before the bill went to the Rules Committee for its rule on bringing it to the floor today. So I think that the change made post-Rules Committee effectually was minimal, or as they say in the law, de minimus; and I am sorry that there is a question that has arisen to that effect.

This bill does not affect the rapid acquisition authority that the Armed Services Committee did approve. It allows, as the gentleman from California mentioned, 1 year for emergency contracts, and it can go longer if the agency head so determines that it is needed.

I wish that this bill, as it is before us, could receive a unanimous vote on the floor because of what it does. It is clear. It helps the procurement process. It brings it home to every American that we are on top of the matter and that oversight is happening, and it is a clarification of a law that is actually overdue and well deserved.

I applaud all those who worked on it. I am going to thank the gentleman from California for his work on the Committee on Armed Services and all of those, Democrats, Republicans, who did approve it and thank the chairman, Mr. WAXMAN, for his hard efforts in bringing this to the floor.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I thank you very much for yielding to me.

I just want to point out that I think my good friend from my same State, former chairman of the Armed Services Committee, now the ranking member, protesteth too much.

He complained that they have to award a contract right away and that this bill would prevent it. Well, we

have already pointed out that that is not the case at all. A contract can be awarded on an emergency basis; but after a year, there ought to be competition. He thought that sounded good once we explained it to him on the floor.

Then he said, well, there is another provision that he dislikes and that is the fact that somebody who awards a contract cannot go to work for the contractor. Well, that provision was narrowed, and it was narrowed to say it had to be a senior person, and it also had to be someone who was personally and substantially involved in awarding the contract.

Now, a lot of these contracts are determined by political appointees. For example, we learned that the Halliburton no-bid contract to restore oil in Iraq was signed by the contracting civil servant, but the decision was made by a political appointee. The gentleman's name is Michael Mobbs. He decided that Halliburton ought to get that contract and that there should not be competition. He even went before a committee of principals, including Scooter Libby representing the Vice President, and suggested to them this is the way the contract ought to be awarded, and the contract was awarded. He argued that it needed to be awarded at that time to that contractor, they would do the job.

Should he be allowed to go within a year and go sign up as an employee for Halliburton? I do not think he should be permitted. All we say is there ought to be a cooling-off period. We do not say he never could go work for Halliburton, but I think it is unseemly to have him go right from that position to go work for Halliburton.

Now, I must say from those who tell us everything is going great in Iraq, they are also telling us today on the House floor everything has gone well with contractors in Iraq. I must submit that things have not gone well, unless you do not mind hundreds of billions of dollars in questioned costs, in overcharging by a contractor to bring in gasoline from Kuwait, having a contractor charge for $45 for Cokes or $50 for laundry, obscene kind of expenditures. Things have not gone well. That is why we need more oversight, and that is why we need this important reform legislation.

Mr. SKELTON. Mr. Chairman, I yield myself the remaining time.

I thank the gentleman from California; and, again, I certainly hope we could get a strong bipartisan vote for this bill. It does good things. It clarifies the law and makes sure that the American taxpayer is more protected regarding contracts. It is fair. It is equitable. It is easy to understand.

All you have to do is read the King's English and follow the law, and it will help clarify so much of the problems that have arisen in recent years regarding contracting.

Ms. HIRONO. Mr. Chairman, as a cosponsor of H.R. 400, introduced by my colleague from Hawaii, the Honorable NEIL ABERCROMBIE, which seeks to prohibit war profiteering, I support H.R. 1362 which champions the same goals.

At a time of war, when the lives of Americans are put at risk, when the limited resources of the Nation are being expended and when programs serving millions of Americans are being cut back, no corporation or person should ever be allowed to misuse, waste or misappropriate Federal tax dollars. Unfortunately, due to mismanagement, incompetence and sweetheart deals, and lack of oversight, certain U.S. corporations and their subsidiaries apparently have blatantly over-charged government agencies, engaged in wasteful practices and committed allegedly fraudulent acts that have resulted in the virtual disappearance of billions of dollars.

Examples of American corporations padding expenses then charging an administrative fee on top of the overpriced goods and services have been well-documented. Documentaries such as ''Iraq for Sale'' chronicle a chilling story of unchecked waste, demoralization of our troops from shoddy services provided by contractors and shameless acts of corporate misconduct.

It is shocking that, in some cases, it's all legal. Without reasonable restrictions on contractor spending and practices on no-bid and cost-plus contracts and lack of enforcement of existing law, there is no incentive to provide goods and services to the government at the least cost and with the greatest efficiency. Indeed, the current practices foster and encourage waste and corruption, as the dismal track record in Iraq of defense contractors demonstrate. Just one corporation, Halliburton, has disputed charges amounting to over a billion dollars.

This bill minimizes the use of no-bid contracts, promote the use of cost effective fixed-price contracts and limit the duration of no-bid contracts, which must be awarded under emergency conditions, to one year. This bill allows the awarding of no-bid contracts which cannot be delayed but require re-bidding when the emergency has elapsed. Public disclosure of the reasons for using no-bid contracts and overcharging will promote transparency and expose improper contracting practices. Fixed price, rather than open-ended cost-plus, contracts will encourage efficiency and minimize unrestricted spending by contractors.

H.R. 1362 will go a long way to curb unchecked abuse and overcharging, slipshod accounting practices and lack of accountability. It will give government procurement managers the authority to control wasteful and fraudulent contractor practices, as well as be governed by stricter ethical guidelines to regulate the procurement managers' own behavior.

Until now, there has been no effective congressional oversight since the war began and no effective laws to rein in wasteful, corrupt and, in fact, unpatriotic behavior. Billions have been lost in this war, while critical programs in education, health, environment, alternate energy and other domestic needs have been unnecessarily slashed.

This legislation will help correct this unacceptable situation. I commend Chairman WAXMAN and the Committee on Oversight and Government Reform for this important improvement in our Federal contracting laws.

Mr. CARDOZA. Mr. Chairman, I support this legislation, and believe that it will improve accountability in Federal contracting and increase the amount of information provided to the public and to Congress about Federal contracts. However, I believe that more needs to be done.

I am particularly concerned about overuse of exemption four of the Freedom of Information Act—the exemption that protects trade secrets and business confidential information. Too often, this exemption is used to withhold information about Federal contracts that should be made public.

With minimal exceptions for proprietary information, the public should have access to information submitted to the Federal Government in application for Federal contracts. And agencies should release information to the public regarding questionable performance of Federal contractors. The public should be able to easily access through FOIA information relating to whether a contractor actually performed the work required under the terms of the contract as well as information that indicates the use of substandard materials or work practices in performing the contract.

Waste, fraud, and abuse in contracting is all to common. Contractors should not be able to hide behind a FOIA exemption in order to keep their poor performance out of the public eye.

I have spoken to Chairman WAXMAN and he has pledged to jointly request that GAO conduct an examination of this issue and clarify what legitimately qualifies as an exemption for confidential business information. I appreciate Mr. WAXMAN's interest in this issue and look forward to working with him.

Mr. WAXMAN. Mr. Chairman, I understand that my colleague, Representative CARDOZA has concerns about the use of the confidential business information exemption within the Freedom of Information Act to withhold information about Federal contracts from the public. I understand Mr. CARDOZA's concern and want to work with him to ensure that the public has access to this type of information under FOIA. Yesterday, the House approved legislation that will strengthen FOIA and ensure that agencies apply a presumption of disclosure when considering requests. I believe that yesterday's bill, along with the bill we are considering today, are steps in the right direction. But, neither bill directly addresses my colleague's concerns related to overuse of FOIA's exemption four.

I have an ongoing interest in strengthening the Freedom of Information Act and certainly want to work together with Mr. CARDOZA to accomplish his important goal of ensuring public access to information about federal contractor performance.

I have agreed to work with Mr. CARDOZA to request that GAO conduct an examination of agency use of exemption four. A report from GAO could clarify what is currently being withheld from the public under this exemption, and how much of that information is actually a trade secret or is truly confidential. This report will inform us as we move forward.

Mr. ORTIZ. Mr. Chairman, a government of the people only works when transparency and accountability are the watchwords of the day. This is vital when it comes to contracting. Democracy suffers when our government spends taxpayer money on contracts that can include fraud, waste, and abuse.

Nowhere is this more apparent than in defense-related contracts that are single-sourced

and rarely overseen. Our troops don't have the equipment they need in the field; and taxpayers are losing billions in fraud and abuse in contracts.

The bill before us today ends waste in Federal contracting, by reducing the use of no-bid contracts, mandating disclosure of no-bid contracts and contract overcharges, and closing the revolving door between government procurement officials and private contractors. The wasted money would be far better used to improve readiness needs—currently in deep crisis.

We have to reconstruct our military that has been decimated by the Iraq war. A good beginning to that long and difficult task is providing open competition in contracting in order to provide the best services for our military in both wars.

Congress has exposed a pattern of reckless spending, poor planning, and ineffective oversight in contracting that has resulted in the waste of hundreds of millions of taxpayer dollars in no-bid contracts for Halliburton and for contracts for Hurricane Katrina.

This legislation builds on the progress we are making to return to the basic principles of fiscal responsibility and to restore Congress's role as a check and balance to the Executive Branch, particularly on training and equipping of our troops, in order to make this government more accountable to the American people.

Specifically, the legislation would change Federal acquisition law to require agencies to limit the use of emergency no-bid contracts and to increase transparency and accountability in Federal contracting in an effort to protect the taxpayers' money. To restore accountability in the Federal contracting process, the bill would instruct agencies to minimize the use of no-bid contracts, promote the use of cost-effective fixed-price contracts, and limit the duration of no-bid contracts awarded in emergencies to one year.

It also promotes transparency by requiring public disclosure of the rationale for using no-bid contracts, and requiring agencies to report to Congress on overcharges in contracts. To improve the integrity in contracting, the bill closes the revolving door between government procurement officials and private contractors.

Spending on no-bid contracts has more than doubled under the Bush Administration with a 75 percent increase in spending on contracts that reward companies for every taxpayer dollar spent, not saved with more than $2.4 billion squandered on no-bid contracts for Halliburton in Iraq, with another or the other $23 billion for other abuse-prone contracts. That money lost to fraud and abuse would have gone a long way in equipping our troops in the field.

Mr. Chairman, our military readiness is in crisis in no small measure due to the waste, fraud and abuse that is inherent in how this government has awarded contracts in Iraq and elsewhere. I ask the House to join me in supporting this important legislation.

Mr. ENGEL. Mr. Chairman, I rise today in strong support of H.R. 1362, the Accountability in Contracting Act. With the alarming increase of no-bid contracts and cost-plus contracts under this administration, I am very gratified to see the Democratic majority bring this bill up for a vote so that we can put an end to these scurrilous practices.

The United States government has paid hundreds of millions of dollars in the past few years to contractors that did not even have to submit a bid for the work it wanted to conduct. So much for good old fashioned American competition! In addition, there have been very few penalties for the contractors when this work went far over budget and Federal dollars were misused such as in the Hurricane Katrina recovery effort. American taxpayers have had to pick up the tab for these cost overruns, and they have been on the hook for millions and millions of dollars.

Mr. Chairman, in this week devoted to oversight legislation, this is a necessary bill to protect the taxpayers of this Nation from paying too much for too little work. This bill will reduce the number of no-bid contracts and strictly control cost overruns. Further, new rules will be promulgated for disclosing contractor overcharges.

The Accountability in Contracting Act is long overdue, and I thank the Speaker, the Majority Leader, and Chairman WAXMAN for bringing this bill up for a vote.

Mr. ARCURI. Mr. Chairman, it is time to rein in this administration's prevalent use of no-bid contracts. I urge all my colleagues on both sides of the aisle to support this rule and the Accountability in Contracting Act.

In the last five years, spending on ''no-bid'' or ''sole-source'' contracts has more than doubled. The administration contends that in every one of these cases there were ''urgent and compelling needs'' that required these contracts to be awarded without a competitive bidding process. In the case of the emergency response to disasters like hurricanes Katrina and Rita, I don't dispute that the need was urgent, but for non-emergency contracting needs, we must get our fiscal house in order.

Just as any family has a budget to stick to, shouldn't we reach a point after an emergency when there has been enough time to consider multiple, competitive bids? A point after which the ''compelling needs'' are a little less urgent? By last June—nine months after Hurricane Katrina—$10.6 billion had been awarded to private contractors for recovery efforts, but only 30 percent of that had been awarded competitively.

I know of no small business in Upstate New York, who could get by without reasonably budgeting for their expenses—even in times of emergency. Why should taxpayer dollars be spent differently?

Oversight of these contracts has been no better. Audits have revealed that post-Katrina contractors have over-billed, double-billed, and billed for work that was never completed. The Defense Contractor Audit Agency found that through fiscal year 2006, over $10 billion in contractor charges in Iraq have been identified as ''questioned'' or ''unsupported.''

Under this administration, the use of ''cost plus'' contracts has increased more than seventy-five percent. These cost-plus contracts guarantee a contractor a fixed profit, regardless of how efficiently they spend the government's money—taxpayers' money. These contracts provide no incentive to look after the bottom line because they guarantee there will always be money off the top. When indefinite, no-bid contracts contain ''cost-plus'' provisions, the opportunity for foul play is only amplified.

The Accountability in Contracting Act addresses these concerns. This bill limits to roughly 8 months the time that federal no-bid contracts can last. It requires each federal agency that has awarded at least $1 billion in the preceding fiscal year to develop and implement a plan to minimize the use of contracts entered into using no-bid procedures and cost-reimbursement type contracts. The bill also establishes a system to increase competition in contract bidding and requires agencies that enter into a no-bid contract to make ''justification and approval'' documents public within fourteen days after awarding a contract.

Mr. Chairman, we have a responsibility to the American people to spend their hard-earned tax dollars in a fiscally responsible way. And the Accountability in Contracting Act will help reach that end by providing much-needed transparency to the way the federal government awards contracts.

Mr. SKELTON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The Acting CHAIRMAN. All time for general debate has expired.

In lieu of the amendments recommended by the Committee on Oversight and Government Reform and the Committee on Armed Services printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute printed in part A of House Report 110–49. That amendment in the nature of a substitute shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Accountability in Contracting Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—IMPROVING THE QUALITY OF CONTRACTS

SEC. 101. LIMITATION ON LENGTH OF NONCOMPETITIVE CONTRACTS.

(a) REVISION OF FAR.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to restrict the contract period of any contract described in subsection (c) to the minimum contract period necessary—

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

(b) CONTRACT PERIOD.—The regulations promulgated under subsection (a) shall require the contract period to not exceed one year, unless the head of the executive agency concerned determines that the Government would be seriously injured by the limitation on the contract period.

(c) COVERED CONTRACTS.—This section applies to any contract in an amount greater than $1,000,000 entered into by an executive agency using procedures other than competitive procedures pursuant to the exception provided in section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)) or section 2304(c)(2) of title 10, United States Code.

(d) DEFINITIONS.—In this section:

(1) The term ''executive agency'' has the meaning provided in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(2) The term ''head of the executive agency'' means the head of an executive agency except that, in the case of the Department of Defense, the term means—

(A) in the case of a military department, the Secretary of the military department;

(B) in the case of a Defense Agency, the head of the Defense Agency; and

(C) in the case of any part of the Department of Defense other than a military department or Defense Agency, the Under Secretary of Defense for Acquisition, Technology, and Logistics.

SEC. 102. MINIMIZING SOLE-SOURCE CONTRACTS.

(a) PLANS REQUIRED.—Subject to subsection (c), the head of each executive agency covered by title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or, in the case of the Department of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall develop and implement a plan to minimize, to the maximum extent practicable, the use of contracts entered into using procedures other than competitive procedures by the agency or department concerned. The plan shall contain measurable goals and shall be completed and submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate and, in the case of the Department of Defense and the Department of Energy, the Committees on Armed Services of the Senate and the House of Representatives, with a copy provided to the Comptroller General, not later than 1 year after the date of the enactment of this Act.

(b) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall review the plans provided under subsection (a) and submit a report to Congress on the plans not later than 18 months after the date of the enactment of this Act.

(c) REQUIREMENT LIMITED TO CERTAIN AGENCIES.—The requirement of subsection (a) shall apply only to those agencies that awarded contracts in a total amount of at least $1,000,000,000 in the fiscal year preceding the fiscal year in which the report is submitted.

(d) CERTAIN CONTRACTS EXCLUDED.—The following contracts shall not be included in the plans developed and implemented under subsection (a):

(1) Contracts entered into under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), in amounts less than the amounts listed in paragraph (1)(D)(i)(II) of that section.

(2) Contracts entered into under section 31 (15 U.S.C. 657a) of such Act, in amounts less than the amounts listed in subsection (b)(2)(A)(ii) of that section.

(3) Contracts entered into under section 36 of such Act (15 U.S.C. 657f), in amounts less than the amounts listed in subsection (a)(2) of that section.

SEC. 103. MAXIMIZING FIXED-PRICE PROCUREMENT CONTRACTS.

(a) PLANS REQUIRED.—Subject to subsection (c), the head of each executive agency covered by title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or, in the case of the Department of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall develop and implement a plan to maximize, to the fullest extent practicable, the use of fixed-price type contracts for the procurement of goods and services by the agency or department concerned. The plan shall contain measurable goals and shall be completed and submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate and, in the case of the Department of Defense and the Department of Energy, the Committees on Armed Services of the Senate and the House of Representatives, with a copy provided to the Comptroller General, not later than 1 year after the date of the enactment of this Act.

(b) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall review the plans provided under subsection (a) and submit a report to Congress on the plans not later than 18 months after the date of the enactment of this Act.

(c) REQUIREMENT LIMITED TO CERTAIN AGENCIES.—The requirement of subsection (a) shall apply only to those agencies that awarded contracts in a total amount of at least $1,000,000,000 in the fiscal year preceding the fiscal year in which the report is submitted.

TITLE II—INCREASING CONTRACT OVERSIGHT

SEC. 201. PUBLIC DISCLOSURE OF JUSTIFICATION AND APPROVAL DOCUMENTS FOR NONCOMPETITIVE CONTRACTS.

(a) CIVILIAN AGENCY CONTRACTS.—

(1) IN GENERAL.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended by adding at the end the following new subsection:

''(j)(1)(A) Except as provided in subparagraph (B), in the case of a procurement permitted by subsection (c), the head of an executive agency shall make publicly available, within 14 days after the award of the contract, the documents containing the justification and approval required by subsection (f)(1) with respect to the procurement.

''(B) In the case of a procurement permitted by subsection (c)(2), subparagraph (A) shall be applied by substituting '30 days' for '14 days'.

''(2) The documents shall be made available on the website of the agency and through the Federal Procurement Data System.

''(3) This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5, United States Code.''.

(2) CONFORMING AMENDMENT.—Section 303(f) of such Act is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

(b) DEFENSE AGENCY CONTRACTS.—

(1) IN GENERAL.—Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(l)(1)(A) Except as provided in subparagraph (B), in the case of a procurement permitted by subsection (c), the head of an agency shall make publicly available, within 14 days after the award of the contract, the documents containing the justification and approval required by subsection (f)(1) with respect to the procurement.

''(B) In the case of a procurement permitted by subsection (c)(2), subparagraph (A) shall be applied by substituting '30 days' for '14 days'.

''(2) The documents shall be made available on the website of the agency and through the Federal Procurement Data System.

''(3) This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5.''.

(2) CONFORMING AMENDMENT.—Section 2304(f) of such title is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

SEC. 202. DISCLOSURE OF GOVERNMENT CONTRACTOR AUDIT FINDINGS.

(a) QUARTERLY REPORT TO CONGRESS.—

(1) The head of each Federal agency or department or, in the case of the Department of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall submit to the chairman and ranking member of each committee specified in paragraph (2) on a quarterly basis a report that includes the following:

(A) A list of completed audits performed by such agency or department issued during the applicable quarter that describe contractor costs in excess of $10,000,000 that have been identified as unjustified, unsupported, questioned, or unreasonable under any contract, task or delivery order, or subcontract.

(B) The specific amounts of costs identified as unjustified, unsupported, questioned, or unreasonable and the percentage of their total value of the contract, task or delivery order, or subcontract.

(C) A list of completed audits performed by such agency or department issued during the applicable quarter that identify material deficiencies in the performance of any contractor or in any business system of any contractor under any contract, task or delivery order, or subcontract.

(2) The report described in paragraph (1) shall be submitted to—

(A) the Committee on Oversight and Government Reform of the House of Representatives;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committees on Appropriations of the House of Representatives and the Senate;

(D) in the case of reports from the Department of Defense or the Department of Energy, the Committees on Armed Services of the Senate and the House of Representatives; and

(E) the committees of primary jurisdiction over the agency or department submitting the report.

(3) Paragraph (1) shall not apply to an agency or department with respect to a calendar quarter if no audits described in paragraph (1) were issued during that quarter.

(b) SUBMISSION OF INDIVIDUAL AUDITS.—

(1) The head of each Federal agency or department shall provide, within 14 days after a request in writing by the chairman or ranking member of any committee listed in paragraph (2), a full and unredacted copy of any audit described in subsection (a)(1). Such copy shall include an identification of information in the audit exempt from public disclosure under section 552(b) of title 5, United States Code.

(2) The committees listed in this paragraph are the following:

(A) The Committee on Oversight and Government Reform of the House of Representatives.

(B) The Committee on Homeland Security and Governmental Affairs of the Senate.

(C) The Committees on Appropriations of the House of Representatives and the Senate.

(D) In the case of the Department of Defense or the Department of Energy, the Committees on Armed Services of the Senate and House of Representatives.

(E) The committees of primary jurisdiction over the agency or department to which the request is made.

SEC. 203. STUDY OF ACQUISITION WORKFORCE.

(a) REQUIREMENT FOR STUDY.—The Administrator for Federal Procurement Policy shall conduct a study of the composition, scope, and functions of the Government-wide acquisition workforce and develop a comprehensive definition of, and method of measuring the size of, such workforce.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the relevant congressional committees a report on the results of the study required by subsection (a), with such findings and recommendations as the Administrator determines appropriate.

SEC. 204. REPEAL OF SUNSET OF TRAINING FUND.

Subparagraph (H) of section 37(h)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(h)(3)) is repealed.

TITLE III—PROMOTING INTEGRITY IN CONTRACTING

SEC. 301. ADDITIONAL PROVISIONS RELATING TO PROCUREMENT OFFICIALS.

(a) ELIMINATION OF LOOPHOLES THAT ALLOW FORMER FEDERAL OFFICIALS TO ACCEPT COMPENSATION FROM CONTRACTORS OR RELATED ENTITIES.—Section 27(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(d)) is amended—

(1) in paragraph (1)—

(A) by striking ''or consultant'' and inserting ''consultant, lawyer, or lobbyist''; and

(B) in subparagraph (C), by striking ''Federal agency—'' and inserting ''Federal agency or participated personally and substantially at a senior personnel level in—''

(2) by amending paragraph (2) to read as follows:

''(2) Paragraph (1) shall not prohibit a former official of a Federal agency from accepting compensation from any division or affiliate of a contractor that does not produce the same or similar products or services as the entity of the contractor that is responsible for the contract referred to in subparagraph (A), (B), or (C) of such paragraph if the agency's designated ethics officer determines that the former official's acceptance of compensation would not damage public confidence in the integrity of the procurement process.''.

(b) REQUIREMENT FOR FEDERAL PROCUREMENT OFFICERS TO DISCLOSE JOB OFFERS MADE ON BEHALF OF RELATIVES.—Section 27(c)(1) of such Act (41 U.S.C. 423(c)(1)) is amended by inserting after ''that official'' the following: ''or for a relative of that official (as defined in section 3110 of title 5, United States Code)''.

(c) REQUIREMENT ON AWARD OF GOVERNMENT CONTRACTS TO FORMER EMPLOYERS.—Section 27 of such Act (41 U.S.C. 423) is amended by adding at the end the following new subsection:

''(i) PROHIBITION ON INVOLVEMENT BY CERTAIN FORMER CONTRACTOR EMPLOYEES IN PROCUREMENTS.—An employee of the Federal Government who is a former employee of a contractor with the Federal Government shall not be personally and substantially involved with any award of a contract to the employee's former employer, or in the administration of such contract at a senior personnel level, for the one-year period beginning on the date on which the employee leaves the employment of the contractor unless the employee has received a waiver from the agency's designated ethics officer. In determining whether to issue a waiver, the designated ethics officer shall take into account the agency's need for the involvement of the employee and the impact a waiver would have on public confidence in the integrity of the procurement process.''.

(d) REGULATIONS.—Section 27 of such Act (41 U.S.C. 423) is further amended by adding at the end the following new subsection:

''(j) REGULATIONS.—The Administrator, in consultation with the Director of the Office of Government Ethics, shall—

''(1) promulgate regulations to carry out and ensure the enforcement of this section; and

''(2) monitor and investigate individual and agency compliance with this section.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

The Acting CHAIRMAN. No amendment to that amendment shall be in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

PART B AMENDMENT NO. 1 OFFERED BY MR. MATHESON

The Acting CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110–49.

Mr. MATHESON. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 offered by Mr. MATHESON:

At the end of title II, add the following new section:

SEC. 2___. NOTICE TO CONGRESS OF NON-COMPETITIVE CONTRACTS AWARDED TO FOREIGN-OWNED COMPANIES IN COUNTRIES SPONSORING TERRORISM.

(a) NOTICE TO CONGRESS REQUIRED.—If a contract is expected to be awarded by a department or agency of the Federal Government without the use of competitive procedures to a foreign-owned company that is based or has majority operations in a country described in subsection (b), the department or agency shall notify the appropriate congressional committees at least 30 days before awarding the contract, for purposes of providing Congress time to review the proposed contract and provide comments to the department or agency.

(b) FOREIGN COUNTRIES DESCRIBED.—A country described in this subsection is a country the government of which the Secretary of State has determined, for purposes of section 6(j) of Export Administration Act of 1979, section 620A of the Foreign Assistance Act of 1961, section 40 of the Arms Export Control Act, or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

The Acting CHAIRMAN. Pursuant to House Resolution 242, the gentleman from Utah (Mr. MATHESON) and the gentleman from Virginia (Mr. TOM DAVIS) each will control 5 minutes.

The Chair recognizes the distinguished gentleman from Utah.

□ 1245

Mr. MATHESON. Mr. Chairman, first of all I do want to commend Chairman WAXMAN and the Oversight and Government Reform committee for all the work that they have done this week.

The four accountability bills that the House has already considered this week are an important step that Congress should take in order to keep a promise to the American people. A government of the people and by the people should do everything to ensure transparency in Federal Government contracting.

That is why I rise today to offer an amendment to H.R. 1362, the Accountability in Contracting Act. I believe that the public deserves a great level of accountability and transparency in sole source contracting.

Now, over the past several years, there has been a great deal of controversy regarding this type of contract. As a businessman, before I came to Congress and as a supporter of business, I believe that there are, indeed, legitimate reasons for this type of contract to be issued. However, I also believe that we need checkpoints in place at times.

My amendment anticipates a limited set of circumstances that call for additional scrutiny. It would simply provide Congress with prior notice of any sole source contract expected to be awarded to a foreign-owned company that is based in or has majority operations in a country known to sponsor terrorist activity.

The amendment is intended to allow Congress to review and comment on the proposed contract. As someone who has spent his life in the business world before coming to Congress, I think there are important reasons why Congress should be looking at sole source contracting beyond just the business perspective.

My amendment would provide 30 days for the appropriate congressional oversight committees to review this type of contract under the circumstances I have described. Now, this is not an overly long period of time, but it is still a sufficient amount of time for Congress to take a look at major contracts and offer a different perspective, if necessary.

I think it's important that we take a step in the right direction to attempt to address this issue in advance, instead of being put in the position of reacting after the fact, if this circumstance were to present itself.

Now, I would also stress this amendment is about good government and making sure that U.S. tax dollars aren't inadvertently benefiting countries that sponsor or harbor terrorists. My amendment is not about singling out any specific business or any specific country. This is about having the

best possible process and checkpoints in place to provide for transparency in government.

It's clear the public has demanded accountability from Congress and from the Federal Government, which they should demand. This bill is a great vehicle for achieving that goal.

We have an opportunity to shine a bright light on contracting procedures in the underlying bill, and I believe that my amendment provides an added layer of appropriate congressional review in, as I described earlier, a rather limited set of potential circumstances in the future.

Again, I want to commend the committee. I want to commend Chairman WAXMAN and also Ranking Member DAVIS for their efforts in this bill, also Chairman SKELTON and Ranking Member HUNTER for his efforts in pursuing this bill as well.

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

Mr. TOM DAVIS of Virginia. Mr. Chairman, I would like to ask the offeror of the amendment just a clarification question before I yield.

For a company to have to disclose under this, it would be a foreign-owned company, I understand, that is based or has majority operations in a country described in subsection D. Any idea who that would apply to? I am just trying to figure out.

Mr. MATHESON. Could you repeat the last half of the question?

Mr. TOM DAVIS of Virginia. I am trying to figure out what companies this would apply to.

Mr. MATHESON. First of all, I did not, as I said, I am not singling out any particular company at all.

Mr. TOM DAVIS of Virginia. A foreign-owned company could be, if it is on the American Stock Exchange, that probably would not make it a foreign-owned company in all likelihood?

Mr. MATHESON. If a company has significant foreign operations in a country, that would be what the legislation is indicating.

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

Mr. WAXMAN. I thank the gentleman for yielding to me.

Mr. Chairman, as I understand the gentleman from Utah's amendment, it would require a Federal agency that expects to award a sole source contract to a foreign company based in a country known to sponsor terrorist activity to notify Congress 30 days prior to the award of that contract. This seems to me to be a good idea.

Congress should know if no-bid contracts are going to countries that sponsor terrorism. So I support the amendment. I think it makes a lot of sense. What Congress does after they get this information will remain to be seen.

There may be some justification for it, but I would certainly want to know, as this Member of Congress, speaking on my own behalf, and I think others would feel the same way if such a sole source contract was going to be awarded.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2½ minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. I thank my colleague for yielding.

Mr. Chairman, let me just say about the major points of this bill, which we marked up, that we are in agreement with it. Contrary to Mr. WAXMAN, we did look at them before we came to the floor.

We agree with the no more than 1 year for sole source, that is good; the plan to minimize use of sole source, that is good; maximize fixed-price procurement, that is good; quarterly report to Congress, good; codify the right to review unredacted copies of reports, that is good.

What I think you need to be very careful about, because if you are going to penalize people, if you are going to give them $50,000 civil penalties, you need to have it clearly laid out for those people who may be professional members of our staffs, who may be good people who come in from the outside and go to work in DOD and wanting to serve this country, let's make sure that walking into a room and participating in a conversation about a contract doesn't then expose them to civil penalties later on.

So I am looking at title III, and I am looking at the word on line 17, it talks about participated personally and substantially at a senior personnel level.

Does that mean, and this relates, of course, to elimination of loopholes that allow former Federal officials to accept compensation from contractors or related entities? I think that is good.

But I think we need to make it very clear as to whether a staff member, like one of your staff members, Mr. WAXMAN, going to work for DOD, who walks in a room and is asked a question about a defense system and answers that question, participates in the conversation, whether he has then violated the law.

Now, if you turn, and I want you to take a look at that, that is line 18. Now, turn the next page, page 14, and go down to the bottom, and it talks about the administration of a contract, which could also be a violation of a law.

So if one of your former staff members or one of mine who goes to work for DOD should participate in the administration, let me just ask you, ask the gentleman from California, if it's a defense system, and your former staff member is assigned to go out to a range to see if that piece of equipment has arrived at the range and if it's being tested, is that involving itself in administration of the contract? Is that person, that former staff member of yours, now involved in administration such as to expose him to civil penalties? That is my question. I think we need to have that clarified.

Mr. WAXMAN. As I understand the way we wrote this bill, it would have to be a person at a senior level who is substantially involved in the awarding of the contract. I don't think being on a range is an awarding of the contract.

Mr. TOM DAVIS of Virginia. Let me just ask the author of the amendment, this would obviously apply, this is a list that evolves, as the Secretary of State certifies, is that correct?

Mr. MATHESON. That's correct.

Mr. TOM DAVIS of Virginia. I would assume that Iran, North Korea are probably on that list today?

Mr. MATHESON. Currently they are on that list, that is correct.

Mr. TOM DAVIS of Virginia. Jordan, the United Arab Emirates, for example, would probably not be on that list today?

Mr. MATHESON. That is correct.

Mr. TOM DAVIS of Virginia. I am prepared to accept the amendment. I congratulate the gentleman for offering it.

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

Mr. MATHESON. I thank the gentleman from Virginia for the comments and helping to clarify this matter.

Again, a limited set of circumstances, one I think is appropriate that we try to anticipate in advance so Congress isn't caught unaware. I appreciate the expression of support from the minority side of the aisle.

I urge all my colleagues to support the amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. MATHESON).

The amendment was agreed to.

PART B AMENDMENT NO. 2 OFFERED BY MR. CASTLE

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110–49.

Mr. CASTLE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 2 offered by Mr. CASTLE:

Add at the end of title III the following:

SEC. 302. REPORT TO CONGRESS.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Government Ethics shall submit a report to Congress that contains the Director's recommendations on requiring Government contractors that advise one or more Federal agencies on procurement policy, and requiring federally funded research and development centers, to comply with restrictions relating to personal financial interests, such as those that apply to Federal employees.

(b) DEFINITION.—In this section—

(1) The term ''Government contractor'' means any person (other than a Federal agency) with which a Federal agency has entered into a contract to acquire goods or services.

(2) The term ''Federal agency'' means—

(A) any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation; and

(B) any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the Architect's direction).

(3) The term ''federally funded research and development center'' means a federally funded research and development center as identified by the National Science Foundation in accordance with the Federal Acquisition Regulation.

The Acting CHAIRMAN. Pursuant to House Resolution 242, the gentleman from Delaware (Mr. CASTLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Delaware.

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

I rise to offer myself a simple but much needed amendment to the legislation before us. According to a 2006 report by the Office of Government Ethics, many Federal agencies have become increasingly reliant on non government employees to work closely with government personnel and provide advice on important procurement and spending issues.

For example, Federally Funded Research and Development Centers, or FFRDCs, as they are commonly known, are in most cases financed exclusively by the agency of the Federal Government and provides services similar to the duties of the Government Accountability Office.

There are currently 36 of these centers, which are normally affiliated with an industrial firm, a university or a nonprofit institution that contracts with the Pentagon, Homeland Security, Department of Energy and other Federal agencies to provide decisionmakers with recommendations on procurement policy and important issues that steer billions in taxpayer dollars.

In fiscal year 2000, FFRDCs received over $6 billion in Federal funding for their services, yet they are not considered to be Federal employees. Beyond just FFRDCs, other private advisers are increasingly being used to provide critical guidance and recommendations.

In fact, some of the most secret and inherently governmental jobs, including spending decisions and budget preparation at the Pentagon and Department of Homeland Security, are increasingly contracted out. Because private advisers and government employees play under different rules, our current conflict of interest laws do not apply to nongovernment workers serving in quasi-governmental controls.

In fact, the Office of Government Ethics has determined that current law prohibits government employees from making recommendations on matters where they have a financial conflict of interest. But it does not presently apply to FFRDC personnel or the private advisers who sit right next to those employees making high-level decisions that involve billions in taxpayer dollars.

While there is no doubt that the majority of these nongovernment advisers are dedicated individuals with highly specialized skills, there is purely a need to prevent financial conflicts of interest from impacting our government's important spending priorities.

In fact, there have been reported incidents in which the advice of private advisers may have been tainted by personal conflicts of interest. In one case, an FFRDC contradicted government auditors, including the Government Accountability Office, and advised the Pentagon to move forward with a risky fighter jet program.

As it turned out, the program suffered costly setbacks, eventually spending billions more than originally planned. It was later discovered that the President of the FFRDC that recommended the program had financial ties, which may have skewed their recommendations.

My amendment would simply require the Office of Government Ethics to study this issue and submit a report to Congress within 180 days on recommendations for requiring nongovernment personnel who serve in an advisory role to the government to comply with personal financial conflict of interest regulations, such as those that currently apply to Federal employees.

This is obviously a very complicated issue, but I firmly believe that it is Congress' responsibility to make certain that ethical people are providing sound advice when it comes to crucial government decisions regarding procurement and spending.

I believe this amendment will help us better understand whether there is a need for such provisions and ensure that our government maximizes its return on investment at the best value for the taxpayer.

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

Mr. WAXMAN. Mr. Chairman, I am not in opposition to the amendment, but I wish to claim the time that would go to the Member in opposition.

The Acting CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. WAXMAN. Mr. Chairman, I rise in support of the Castle amendment. There are currently no Federal ethics laws that apply to contractor employees. This is particularly problematic because contractors are providing more and more services that used to be performed by Federal service personnel.

In many agencies today, one can tell the difference between a Federal employee and a contractor only by the color of his or her badge. One area where this can cause real problems is in the contracting workforce. A company providing contract oversight services to the government may be overseeing a company and working as a subcontractor to that same company in the private sector. Clearly such a situation would cause conflicts of interest.

The amendment offered by Mr. CASTLE would require the Office of Government Ethics to report to Congress with recommendations on requiring contract employees to be covered by Federal financial and conflict of interest laws.

I support this amendment and urge all of my colleagues to support it.

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

Mr. CASTLE. I very much appreciate the support of the distinguished gentleman from California. I think that is significant.

Mr. Chairman, I do feel this is an area that we should look into. I am not enough of an expert to specifically recommend how to do it. That is why we are asking for the study in 180 days. There is potential for conflict here, and we are dealing with very, very large sums of money, and in my judgment, as part of a lot that we are doing this year in bringing in everybody with governmental basis in terms of making decisions, I think it's a very good idea that we do this.

I appreciate his support. I hope the amendment will eventually lead to the best rules and regulations possible with respect to conflicts of interest as far as the future is concerned and the best interests of the country.

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

□ 1300

Mr. WAXMAN. Mr. Chairman, I have time still available if any Member wishes me to yield to him or her.

Mr. TOM DAVIS of Virginia. Will the gentleman yield 30 seconds?

Mr. WAXMAN. I would be happy to yield.

Mr. TOM DAVIS of Virginia. I will commend my friend from Delaware for offering this amendment. I would just say we are happy, and we are here to support it as well, and we think this adds to the bill.

Mr. WAXMAN. Mr. Chairman, I urge support for the amendment.

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

The Acting CHAIRMAN. All time for debate on the amendment has expired.

The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

The Acting CHAIRMAN. There being no further amendments, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. HASTINGS of Florida, Acting Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1362) to reform acquisition practices of the Federal Government, pursuant to House Resolution 242, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. TOM DAVIS of Virginia. I am, Mr. Speaker, in its present form.

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

The Clerk read as follows:

Mr. Tom Davis of Virginia moves to recommit the bill H.R. 1362 to the Committee on Oversight and Government Reform with instructions to report the same back to the House forthwith with the following amendment:

At the end of title II, add the following new section (and conform the table of contents accordingly):

SEC. 2___. PROHIBITION ON CONTRACTS TO EDUCATIONAL INSTITUTIONS NOT SUPPORTING U.S. DEFENSE EFFORTS.

An executive agency may not award a contract to an institution of higher education (including any subelement of such institution) if that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents, the Secretary of a military department or the Secretary of Homeland Security from gaining access to campuses of the institution, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting, in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer. For purposes of this section, the term ''institution of higher education'' has the meaning provided in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001). The prohibition in this section shall not apply to an institution of higher education (or any subelement of that institution) if the Secretary of Defense determines that the institution of higher education involved has a longstanding policy of pacifism based on historical religious affiliation.

Mr. TOM DAVIS of Virginia (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Virginia is recognized for 5 minutes.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself 2 minutes.

This motion to recommit would bar Federal agencies from awarding contracts to colleges and universities that either prohibit on-campus military recruitment, or otherwise do not provide military recruiters access to campuses and to students that is at least equal in quality and scope to the access that is provided to any other employer.

On March 6, 2006, the Supreme Court reversed a Federal appeals court ruling in Rumsfeld vs. Forum for Academic and Institutional Rights. In doing so, eight Justices upheld the constitutionality of the so-called Solomon amendment, upon which this motion is based, forbidding most forms of Federal aid to higher educational institutions that deny military recruiters access to students equal to that provided other employers.

Mr. Speaker, military recruiters must be given access to university and college campuses and students that is at least equal in quality and scope provided to other employers.

This motion establishes that requirement government-wide. We already do this to some agencies in government. A number of Departments are already covered; but since this bill is government-wide in scope, we make this government-wide in scope.

This motion establishes that requirement, thereby addressing an apparent trend among certain colleges and universities to attempt to frustrate military recruiters through official and unofficial mistreatment.

Unfortunately, this growing trend is not isolated to the higher education community, as evidenced by the decision last November by the San Francisco Board of Education to phase out Junior ROTC from the high school system over the next 2 years. At a time of war, when we are depending on a volunteer military, it seems counterproductive to be openly discriminating against our military personnel and to create perceptions that military service is not a noble and professional calling.

The Department of Defense noting that certain colleges and universities continue to restrict access or limit opportunities for military recruiters to participate fully in job fairs, placement office services and interview programs, supports congressional efforts to take action to pass legislation granting military recruiters access equal to that of other employers.

The motion to recommit would help prod those colleges and universities that currently do not provide equal access to military recruiters.

We also, I want to note, have a clause in here that this prohibition does not apply to an institution of higher education or a sub-element if the Secretary of Defense determines that the institution has a longstanding policy of pacifism based on historical religious affiliation.

I urge my colleagues to support this.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I like this motion to recommit. You know, all of us have shown our support for the troops. Almost every Member in this body has shown support by traveling to the warfighting theaters. This is a chance to show support in another way, to show that we believe that the military is an outstanding profession, one which many of our young people who are in institutions of higher education may want to engage in. And this elevates, I think, the military profession by showing that we accord it respect by putting this requirement in this motion to recommit.

So I thank the gentleman for offering it. I think it is excellent. I would commend it to all the Members of this body. And I want to thank the chairman for his offering of the base bill, and for the ranking member, Mr. DAVIS, for their hard work.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would just add, 10 U.S.C. 983 already covers a number of agencies, the Department of Defense and others in terms of contracting and limitations that are put on colleges and universities that don't allow recruiters to come on campuses. This makes it government-wide.

This body has addressed this issue before. But I think it is time to make this government-wide, and I would urge my colleagues to support the motion to recommit.

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

Mr. WAXMAN. Mr. Speaker, I rise in opposition to this motion to recommit.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. WAXMAN. Members could have different views about the underlying question, and that is whether universities should be able to exclude military recruiters. It is not a new issue to be considered on this floor. We have voted on this many, many times. Some universities have taken the position that they don't want military recruiters on their campus because the military is not an equal opportunity employer based on the ''don't ask, don't

tell'' policy. I happen to think that universities that take this position are right.

But that is not the reason I oppose this motion to recommit. I oppose it because I have heard the arguments made by my colleagues many, many, times that we shouldn't exclude somebody from competing from a contract on extraneous bases.

Why should we exclude a university from being able to compete in a government contract when they might be the ones who can save the lives of our troops? After all, the bioshield program has given money, Federal dollars to universities to try to develop ways to get us vaccines that will stop the impact of anthrax or smallpox. Are we going to say that a university that develops such a vaccine will not be able to compete for a contract to sell that vaccine because they don't want recruiters on their campus because they object to the don't ask, don't tell policy? That doesn't make any sense. People ought to be able to compete for contracts based on what they can do if they are selected to perform that contract. Are we going to exclude people for extraneous reasons? I don't think that makes sense.

So I think if you look at it carefully, when you recognize that the work being done at universities can be so important in so many different ways, that we should just arbitrarily exclude them. I think we have all said over and over again in the debate on this bill, we don't like sole-source contracts. We want competition. We want market forces. Well, sometimes you need a sole-source contract in an emergency. Well, then we say at least a year later, let's have competition.

But if we adopt this amendment, from the very beginning we will not allow competition if it involves competition from a university unless they have a longstanding position of being pacifists, and then we will let them compete. But if they have a different position, but they also have the ability to compete and to provide a service that can save our country from terrorism, save our military from disease, save the American people the consequences for which we need them to perform in that contract, we are going to exclude them.

I urge opposition. I know Members will feel a lot of pressure on this because it can be used in a 30-second ad, that Congressman So-and-So voted to allow universities to exclude military recruiters. Well, I don't think that is really what this amendment is doing. It is excluding universities from competing for contracts, even if they can, in awarding that contract, provide vital services and that maybe no one else can provide. So I urge opposition to the motion to recommit.

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

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 309, nays 114, not voting 10, as follows:

[Roll No. 155]

YEAS—309

Aderholt
Akin
Alexander
Altmire
Andrews
Baca
Bachmann
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (TX)
Braley (IA)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carnahan
Carney
Carter
Castle
Chabot
Chandler
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (AL)
Davis (CA)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
DeFazio
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Ellsworth
Emerson
Engel
English (PA)
Etheridge
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green, Gene
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth
Hill
Hobson
Hodes
Hoekstra
Holden
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jefferson
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Kagen
Keller
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Marshall
Matheson
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
Meek (FL)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moore (KS)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Neugebauer
Nunes
Oberstar
Paul
Pearce
Pence
Perlmutter
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sanchez, Loretta
Schiff
Schmidt
Schwartz
Scott (GA)
Sensenbrenner
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tauscher
Taylor
Terry
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wolf
Yarmuth
Young (AK)
Young (FL)

NAYS—114

Abercrombie
Ackerman
Allen
Arcuri
Baldwin
Becerra
Berman
Blumenauer
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Carson
Castor
Clarke
Clay
Cleaver
Cohen
Conyers
Crowley
Cummings
Davis (IL)
DeGette
Delahunt
DeLauro
Doggett
Ellison
Emanuel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Green, Al
Grijalva
Gutierrez
Hastings (FL)
Higgins
Hinchey
Hinojosa
Hirono
Holt
Honda
Hooley
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy
Kucinich
Larson (CT)
Lee
Levin
Lewis (GA)
Loebsack
Lofgren, Zoe
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McNulty
Meehan
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moore (WI)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Price (NC)
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sánchez, Linda T.
Sarbanes
Schakowsky
Scott (VA)
Serrano
Slaughter
Solis
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Towns
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Woolsey
Wu
Wynn

NOT VOTING—10

Brown (SC)
Davis, Jo Ann
Deal (GA)
Hastert
Kaptur
Miller, George
Peterson (PA)
Radanovich
Saxton
Tanner

□ 1409

Messrs. LOEBSACK, PALLONE, BECERRA, ALLEN, TOWNS, DELAHUNT, WELCH of Vermont, MEEHAN, RODRIGUEZ, OLVER, MOLLOHAN and ROTHMAN and Ms. CLARKE, Ms. HIRONO and Ms.

WASSERMAN SCHULTZ changed their vote from ''yea'' to ''nay.''

Messrs. EVERETT, CARNAHAN, LARSEN of Washington, HARE, RAHALL, COSTELLO, MAHONEY of Florida, BACA, KAGEN, COURTNEY, KINGSTON and VISCLOSKY and Mrs. TAUSCHER, Ms. SHEA-PORTER, Mrs. McCARTHY of New York and Ms. LORETTA SANCHEZ of California changed their vote from ''nay'' to ''yea.''

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. WAXMAN. Mr. Speaker, pursuant to the instructions of the House in the motion to recommit, I report H.R. 1362 back to the House with an amendment.

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

The Clerk read as follows:

Amendment:

At the end of title II, add the following new section (and conform the table of contents accordingly):

SEC. 2____. PROHIBITION ON CONTRACTS TO EDUCATIONAL INSTITUTIONS NOT SUPPORTING U.S. DEFENSE EFFORTS.

An executive agency may not award a contract to an institution of higher education (including any subelement of such institution) if that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents, the Secretary of a military department or the Secretary of Homeland Security from gaining access to campuses of the institution, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting, in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer. For purposes of this section, the term ''institution of higher education'' has the meaning provided in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001). The prohibition in this section shall not apply to an institution of higher education (or any subelement of that institution) if the Secretary of Defense determines that the institution of higher education involved has a longstanding policy of pacifism based on historical religious affiliation.

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 347, noes 73, not voting 13, as follows:

[Roll No. 156]

AYES—347

Abercrombie
Ackerman
Aderholt
Alexander
Altmire
Andrews
Arcuri
Baca
Bachmann
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Butterfield
Camp (MI)
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Carter
Castle
Castor
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Drake
Duncan
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Fallin
Farr
Fattah
Ferguson
Filner
Flake
Forbes
Fortenberry
Frank (MA)
Frelinghuysen
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herseth
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McMorris Rodgers
McNerney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Perlmutter
Peterson (MN)
Petri
Pickering
Platts
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rodriguez
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Sires
Skelton
Smith (NE)
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stearns
Stupak
Sutton
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (OH)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (FL)

NOES—73

Akin
Barton (TX)
Bilbray
Bishop (UT)
Blunt
Boehner
Bonner
Brady (TX)
Burgess
Burton (IN)
Buyer
Calvert
Campbell (CA)
Cannon
Cantor
Conaway
Cubin
Culberson
Davis, Tom
Doolittle
Dreier
Everett
Feeney
Fossella
Foxx
Franks (AZ)
Gallegly
Hall (TX)
Herger
Hoekstra
Hunter
Issa
Johnson, Sam
King (IA)
Lamborn
Lewis (CA)
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCrery
McHenry
McKeon
Miller (FL)
Miller, Gary
Musgrave
Myrick
Neugebauer
Pearce
Pence
Pitts
Poe
Price (GA)
Rogers (AL)
Rohrabacher
Sali
Schmidt
Sensenbrenner
Sessions
Shadegg
Simpson
Smith (TX)
Souder
Tancredo
Thornberry
Tiahrt
Turner
Walberg
Westmoreland
Wicker
Wilson (SC)
Young (AK)

NOT VOTING—13

Allen
Brown (SC)
Davis, Jo Ann
Deal (GA)
Hastert
Linder
Miller, George
Peterson (PA)
Radanovich
Saxton
Slaughter
Sullivan
Tanner

□ 1427

Mr. TURNER changed his vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ALLEN. Mr. Speaker, on rollcall No. 156, I was unavoidably detained. Had I been present, I would have voted "aye."

Ms. SLAUGHTER. Mr. Speaker, I was unavoidably detained and missed rollcall vote 156. Had I been present, I would have voted "aye."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H. RES. 106

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Resolution 106.

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

There was no objection.