Lieberman	Pryor	Stabenow
Lincoln	Reed	Stevens
Lott	Reid	Sununu
Lugar	Roberts	Tester
Martinez	Rockefeller	Thune
McCaskill	Salazar	Vitter
McConnell	Sanders	Voinovich
Menendez	Schumer	Warner
Mikulski	Sessions	Webb
Murkowski	Shelby	Whitehouse
Murray	Smith	Wyden
Nelson (FL)	Snowe	
Nelson (NE)	Specter	

NAYS—1

Feingold

NOT VOTING—5

Biden	Clinton	Obama
Brownback	McCain	

The joint resolution (H.J. Res. 52) was passed.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I ask unanimous consent to withdraw the order that relates to Senator MENENDEZ on this matter.

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

Mr. REID. I also ask unanimous consent that the next votes be 10-minute votes.

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008—Continued

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 1585. Cloture having been invoked on amendment No. 3035, offered by the Senator from Massachusetts, Mr. KENNEDY, the pending motion to commit with instructions offered by the Senator from Nevada, Mr. REID, falls.

Amendment No. 3035, offered by the Senator from Massachusetts, Mr. KENNEDY, having been adopted, amendment No. 2064, offered by the Senator from South Carolina, Mr. GRAHAM, falls.

Mr. WARNER. Mr. President, may we have order?

AMENDMENT NO. 2999, AS FURTHER MODIFIED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2999, as modified further. The 2 minutes of debate are evenly divided. The Senator from Virginia.

Mr. WEBB. Mr. President, I would like to briefly say how proud I am that this amendment has been worked out, and I express my appreciation, both to the senior Senator from Virginia for having helped us work this out and also to my colleague from Missouri who did such a great job on the floor yesterday, managing the bill. I yield the rest of our time to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. MCCASKILL. Mr. President, ''We intend to see that no man or corporate group shall profit inordinately on the blood of the boys in the foxhole.''

That is what Senator Harry Truman said as the Truman committee began its work. I think Harry Truman would be very proud of the Senate tonight. I, too, thank the senior Senator from Virginia for his willingness to sit down and work this out, along with Senator LEVIN for all of his support. I think this commission can do important work in a bipartisan way to fix some problems, to make sure we get contracting under control whenever our men and women are in danger.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I compliment my colleagues from Missouri and Virginia, Senators MCCASKILL and WEBB.

The amendment was carefully reviewed by myself and others on this side. We made several recommendations. Each of those recommendations were accepted. We indicate for the record that the amendment is accepted on this side. I ask that we have a voice vote.

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The Amendment (No. 2999), as further modified, is as follows:

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

SEC. 1535. STUDY AND INVESTIGATION OF WARTIME CONTRACTS AND CONTRACTING PROCESSES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.

(a) COMMISSION ON WARTIME CONTRACTING.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the ''Commission on Wartime Contracting'' (in this subsection referred to as the ''Commission'').

(2) MEMBERSHIP MATTERS.—

(A) MEMBERSHIP.—The Commission shall be composed of 8 members, as follows:

(i) 2 members shall be appointed by the Majority Leader of the Senate, in consultation with the Chairmen of the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate.

(ii) 2 members shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairmen of the Committee on Armed Services and the Committee on Oversight and Government Reform of the House of Representatives.

(iii) 1 member shall be appointed by the Minority Leader of the Senate, in consultation with the Ranking Minority Members of the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate.

(iv) 1 member shall be appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Minority Member of the Committee on Armed Services and the Committee on Oversight and Government Reform of the House of Representatives.

(v) 1 member shall be appointed by the Secretary of Defense.

(vi) 1 member shall be appointed by the Secretary of State.

(B) DEADLINE FOR APPOINTMENTS.—All appointments to the Commission shall be made not later than 90 days after the date of the enactment of this Act.

(C) CHAIRMAN AND VICE CHAIRMAN.—

(i) CHAIRMAN.—The chairman of the Commission shall be a member of the Commission selected by the members appointed under clauses (i) and (ii) of subparagraph (A), but only if approved by the vote of a majority of the members of the Commission.

(ii) VICE CHAIRMAN.—The vice chairman of the Commission shall be a member of the Commission selected by the members appointed under clauses (iii) and (iv) of subparagraph (A), but only if approved by the vote of a majority of the members of the Commission.

(D) VACANCY.—In the event of a vacancy in the Commission, the individual appointed to fill the membership shall be of the same political party as the individual vacating the membership.

(3) DUTIES.—

(A) GENERAL DUTIES.—The Commission shall study and investigate the following matters:

(i) Federal agency contracting for the reconstruction of Iraq and Afghanistan.

(ii) Federal agency contracting for the logistical support of coalition forces in Operation Iraqi Freedom and Operation Enduring Freedom.

(iii) Federal agency contracting for the performance of security and intelligence functions in Operation Iraqi Freedom and Operation Enduring Freedom.

(B) SCOPE OF CONTRACTING COVERED.—The Federal agency contracting covered by this paragraph includes contracts entered into both in the United States and abroad for the performance of activities described in subparagraph (A), whether performed in the United States or abroad.

(C) PARTICULAR DUTIES.—In carrying out the study under this paragraph, the Commission shall assess—

(i) the extent and impact of the reliance of the Federal Government on contractors to perform functions (including security, intelligence, and management functions) in Operation Iraqi Freedom and Operation Enduring Freedom;

(ii) the performance of the contracts under review, and the mechanisms used to manage the performance of the contracts under review;

(iii) the extent of waste, fraud, abuse, or mismanagement under such contracts;

(iv) the extent to which those responsible for such waste, fraud, abuse, or mismanagement have been held financially or legally accountable;

(v) the appropriateness of the organizational structure, policies, practices, and resources of the Department of Defense and the Department of State for handling contingency contract management and support; and

(vi) the extent of the misuse of force and violations of the laws of war or Federal law by contractors.

(4) REPORTS.—

(A) INTERIM REPORT.—On January 15, 2009, the Commission shall submit to Congress an interim report on the study carried out under paragraph (3), including the results and findings of the study as of that date.

(B) OTHER REPORTS.—The Commission may from time to time submit to Congress such other reports on the study carried out under paragraph (3) as the Commission considers appropriate.

(C) FINAL REPORT.—Not later than two years after the date of the appointment of all of the members of the Commission under paragraph (2), the Commission shall submit to Congress a report on the study carried out under paragraph (3). The report shall—

(i) include the findings of the Commission;

(ii) identify lessons learned on the contracting covered by the study; and

(iii) include specific recommendations for improvements to be made in—

(I) the process for developing contract requirements for wartime contracts and contracts for contingency operations;

(II) the process for awarding contracts and task orders for wartime contracts and contracts for contingency operations;

(III) the process for managing and providing oversight for the performance of wartime contracts and contracts for contingency operations;

(IV) the process for holding contractors and their employees accountable for waste, fraud, abuse, or mismanagement under wartime contracts and contracts for contingency operations;

(V) the process for determining which functions are inherently governmental and which functions are appropriate for performance by contractors in an area of combat operations (including an area of a contingency operation), including a determination whether the use of civilian contractors to provide security in an area of combat operations is a function that is inherently governmental;

(VI) the organizational structure, resources, policies, and practices of the Department of Defense and the Department of State handling contract management and support for wartime contracts and contracts for contingency operations; and

(VII) the process by which roles and responsibilities with respect to wartime contracts and contracts for contingency operations are distributed among the various departments and agencies of the Federal Government, and interagency coordination and communication mechanisms associated with wartime contracts and contracts for contingency operations.

(5) OTHER POWERS AND AUTHORITIES.—

(A) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this subsection—

(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths (provided that the quorum for a hearing shall be three members of the Commission); and

(ii) provide for the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may determine advisable.

(B) INABILITY TO OBTAIN DOCUMENTS OR TESTIMONY.—In the event the Commission is unable to obtain testimony or documents needed to conduct its work, the Commission shall notify the committees of Congress of jurisdiction and appropriate investigative authorities.

(C) ACCESS TO INFORMATION.—The Commission may secure directly from the Department of Defense and any other department or agency of the Federal Government any information or assistance that the Commission considers necessary to enable the Commission to carry out the requirements of this subsection. Upon request of the Commission, the head of such department or agency shall furnish such information expeditiously to the Commission. Whenever information or assistance requested by the Commission is unreasonably refused or not provided, the Commission shall report the circumstances to Congress without delay.

(D) PERSONNEL.—The Commission shall have the authorities provided in section 3161 of title 5, United States Code, and shall be subject to the conditions set forth in such section, except to the extent that such conditions would be inconsistent with the requirements of this subsection.

(E) DETAILEES.—Any employee of the Federal Government may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(F) SECURITY CLEARANCES.—The appropriate departments or agencies of the Federal Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(G) VIOLATIONS OF LAW.—

(i) REFERRAL TO ATTORNEY GENERAL.—The Commission may refer to the Attorney General any violation or potential violation of law identified by the Commission in carrying out its duties under this subsection.

(ii) REPORTS ON RESULTS OF REFERRAL.—The Attorney General shall submit to Congress a report on each prosecution, conviction, resolution, or other disposition that results from a referral made under this subparagraph.

(6) TERMINATION.—The Commission shall terminate on the date that is 60 days after the date of the submittal of its final report under paragraph (4)(C).

(7) CONTINGENCY OPERATION DEFINED.—In this subsection, the term ''contingency operation'' has the meaning given that term in section 101 of title 10, United States Code.

(b) INVESTIGATION OF WASTE, FRAUD, ABUSE, AND MISMANAGEMENT.—

(1) IN GENERAL.—The Special Inspector General for Iraq Reconstruction shall, in collaboration with the Inspector General of the Department of Defense, the Inspector General of the Department of State, and the Inspector General of the United States Agency for International Development, conduct a series of audits to identify potential waste, fraud, abuse, or mismanagement in the performance of—

(A) Department of Defense contracts and subcontracts for the logistical support of coalition forces in Operation Iraqi Freedom and Operation Enduring Freedom; and

(B) Federal agency contracts and subcontracts for the performance of security and reconstruction functions in Operation Iraqi Freedom and Operation Enduring Freedom.

(2) SCOPE OF AUDITS OF CONTRACTS.—Each audit conducted pursuant to paragraph (1)(A) shall focus on a specific contract, task order, or site of performance under a contract or task order and shall examine, at a minimum, one or more of the following issues:

(A) The manner in which requirements were developed.

(B) The procedures under which the contract or task order was awarded.

(C) The terms and conditions of the contract or task order.

(D) The contractor's staffing and method of performance, including cost controls.

(E) The efficacy of Department of Defense management and oversight, Department of State management and oversight, and United States Agency for International Development management and oversight, including the adequacy of staffing and training of officials responsible for such management and oversight.

(F) The flow of information from the contractor to officials responsible for contract management and oversight.

(3) SCOPE OF AUDITS OF OTHER CONTRACTS.—Each audit conducted pursuant to paragraph (1)(B) shall focus on a specific contract, task order, or site of performance under a contract or task order and shall examine, at a minimum, one or more of the following issues:

(A) The manner in which the requirements were developed and the contract or task order was awarded.

(B) The manner in which the Federal agency exercised control over the contractor's performance.

(C) The extent to which operational field commanders are able to coordinate or direct the contractor's performance in an area of combat operations.

(D) The extent to which the functions performed were appropriate for performance by a contractor.

(E) The degree to which contractor employees were properly screened, selected, trained, and equipped for the functions to be performed.

(F) The nature and extent of any incidents of misconduct or unlawful activity by contractor employees.

(G) The extent to which any incidents of misconduct or unlawful activity were reported, documented, investigated, and (where appropriate) prosecuted.

(4) CONTINUATION OF SPECIAL INSPECTOR GENERAL.—

(A) IN GENERAL.—Notwithstanding section 3001(o) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 5 U.S.C. App. 8G note), the Office of the Special Inspector General for Iraq Reconstruction shall not terminate until the date that is 60 days after the date of the submittal under paragraph (4)(C) of subsection (a) of the final report of the Commission on Wartime Contracting established by subsection (a).

(B) REAFFIRMATION OF CERTAIN DUTIES AND RESPONSIBILITIES.—Congress reaffirms that the Special Inspector General for Iraq Reconstruction retains the duties and responsibilities in sections 4 of the Inspector General Act of 1978 (5 U.S.C. App. 4; relating to reports of criminal violations to the Attorney General) and section 5 of the Inspector General Act of 1978 (5 U.S.C. App. 5; relating to reports to Congress) as expressly provided in subsections (f)(3) and (i)(3), respectively, of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be required to carry out the provisions of this section.

Mr. LEVIN. Mr. President, let me add my commendation to Senators WEBB and MCCASKILL and the others who fought so hard for this amendment. The heart of this amendment has remained. There have been some changes in it. But the substance of this amendment, the crying need for a commission to look into the contract abuses and waste and fraud is very strong. This amendment is going to do some important work for the country and for the next time we are in a situation where we have such massive spending as we have in this war.

Mr. President, I ask unanimous consent—I have cleared this with my friend, Senator WARNER—that we vitiate the vote on the Menendez amendment—that has been done? Fine.

Mr. WARNER. Mr. President, I further ask unanimous consent that we may have printed in the RECORD at this point such other statements relative to the changes that we deem appropriate to support this amendment, including a document dated September 25, 2007, by the Deputy Secretary of Defense subject: ''Management of DOD Contractors and Contract Personnel Accompanying U.S. Armed Forces in Contingency Operations Outside the United States.''

This is a step by the Deputy Secretary to correct some of the problems that this commission will be addressing. It underlies the necessity for the commission that these two Senators and others have advocated.

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

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, September 25, 2007.

MANAGEMENT OF DOD CONTRACTORS AND CONTRACTOR PERSONNEL ACCOMPANYING U.S. ARMED FORCES IN CONTINGENCY OPERATIONS OUTSIDE THE UNITED STATES

Defense contractors fulfill a variety of important functions for the Department of Defense, both inside the United States and abroad. These functions encompass vital support to our military forces engaged in combat operations in Iraq and Afghanistan to include security for convoys, sites, personnel and the like.

While investigations are still ongoing and no findings of wrongdoing determined, recent events regarding non-DoD contractors performing security service in Iraq have identified a need to better ensure that relevant DoD policies and processes are being followed. This review is applicable for all policies and processes to manage DoD contractors accompanying U.S. armed forces in contingency operations outside the United States. DoDI 3020.41, ''Contractor Personnel Authorized to Accompany the U.S. Armed Forces,'' is the comprehensive source of policy and procedures concerning DoD contractor personnel.

Geographic Combatant Commanders are responsible for establishing lines of command responsibility within their Area of Responsibility (AOR) for oversight and management of DoD contractors and for discipline of DoD contractor personnel when appropriate. Accordingly, addressees will ensure the consistency of their implementing guidance for policies outlined in DoDI 3020.41 and ensure contracts being executed within an AOR require DoD contractors to comply with the respective geographic Combatant Commander's guidance for the AOR including, for example, Rules on the Use of Force (RUF).

DoD contractor personnel (regardless of nationality) accompanying U.S. armed forces in contingency operations are currently subject to UCMJ jurisdiction. Commanders have UCMJ authority to disarm, apprehend, and detain DoD contractors suspected of having committed a felony offense in violation of the RUF, or outside the scope of their authorized mission, and to conduct the basic UCMJ pretrial process and trial procedures currently applicable to the courts-martial of military servicemembers. Commanders also have available to them contract and administrative remedies, and other remedies, including discipline and possible criminal prosecution.

Under the Military Extraterritorial Jurisdiction Act (MEJA), federal jurisdiction exists over felony offenses committed outside the U.S. by contractor personnel of any federal agency or provisional authority whose employment relates to supporting the DoD mission. Implementing guidance under this Act is included in DoDI 5525.11, ''Criminal Jurisdiction Over Civilians Employed by or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members,'' and military department regulations. This instruction requires DoD coordination with the Department of Justice for the return to the U.S. of contractor personnel subject to MEJA for prosecution.

Pursuant to these authorities, addressees as appropriate will:

1. Ensure that all required clauses are included in DoD contracts when contract performance requires contractors and contractor personnel to accompany U.S. forces in contingency operations.

2. Verify that all DoD contractors ensure that their personnel authorized to carry weapons as security personnel or for personal protection have been properly trained and licensed for the weapons they are authorized to carry and appropriately trained on the applicable RUF.

3. Provide appropriate discipline for unauthorized possession, carrying, or discharging weapons.

4. Ensure that instructions have been issued to their command and to their contractors to prevent contractor personnel who are suspected of having committed a felony act or of having committed an act in violation of the RUF from being allowed to leave the country until approved by the senior commander in the country or until an investigation is completed and a decision is rendered by the flag officer court martial convening authority. Officials of contracting firms who arrange for, facilitate, or allow such personnel to leave the country before being cleared will be subject to disciplinary action under either UCMJ or MEJA.

5. Review periodically the existing RUF and make any changes necessary to minimize the risk of innocent civilian casualties or unnecessary destruction of civilian property.

6. Require DoD contractors performing security services to provide to the Combatant Commander copies of their Standard Operating Procedures (SOPs) and guidance to their contractor personnel on escalation of the use of force, the use of deadly force, and on the rules for interaction with host country nationals who may be present and/or potentially involved in a situation perceived by contractor personnel as a potential threat to their mission or to themselves. Require that such SOPs and guidance be modified as necessary to be consistent with the RUF.

7. Review periodically the guidance and authorization for DoD contractor personnel to possess and carry weapons.

Over the past several months, the Department has been developing and staffing additional guidance regarding this UCMJ disciplinary authority over persons serving with or accompanying the armed forces during contingency operations. The UCMJ authority referenced in this memorandum remains in effect until modified by promulgation of such additional guidance.

Mr. WARNER. I think we are prepared to vote.

The PRESIDING OFFICER. Under the previous order, the amendment has been agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2196

The PRESIDING OFFICER. The next question is on amendment No. 2196, offered by Senator COBURN. Ten minutes will be evenly divided.

Mr. COBURN. Mr. President, this is a very simple amendment. We voted to increase the debt limit. We have a project that the Department of Justice, the DEA, and all the other drug enforcement agencies say is ineffective.

I am going to give you some quotes from the people who worked there and what they had said. Former official of the Drug Czar's office put it bluntly: ''We see nothing from this.''

The former, most recently resigned, Director: ''I recognize that many of the reports were god-awful, poorly written, poorly researched, and in many cases just plain wrong.''

Jim Milford, former NDIC Deputy, admitted: ''I have never come to terms with the justification for the NDIC, and the bottom line is we actually have to search for a mission.''

These are good people who work there. It is not about them. It is about whether we are going to be prudent with the money we spend. They have one program that is effective. It is called DOCX. The problem with it being where it is, is it cannot be applied there, it has to be applied at other drug intelligence centers and the other DEA centers throughout the country.

The administration, the Department of Justice, the DEA and all the other drug centers, especially the one in El Paso, is where this information ought to be processed.

We have spent half a billion dollars and gotten very little return. It is a recommendation that we have a chance to do something. We have a chance to eliminate a program that is not effective by any metric that the Government has applied or the former Directors have applied or the Deputy Directors have applied who have worked there, saying it is not effective.

My hope is this body will approve this amendment and start us down the road of eliminating programs that are ineffective.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I will yield half the time in opposition to the Coburn amendment to the two Senators from Pennsylvania, half to Senator SPECTER and half to Senator CASEY.

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

Mr. SPECTER. Mr. President, will you advise me when the 2½ minutes have expired?

The PRESIDING OFFICER. Yes.

Mr. SPECTER. Mr. President, contrary to the arguments of the Senator from Oklahoma, the National Drug Intelligence Center has been functioning since 1993 and has never been challenged on this floor in any respect. It has not been challenged until today because it has performed so well.

Yesterday I had printed in the RECORD the extensive compliments

which have been paid by the FBI in an expansive letter on November 21, 2001, by DEA, the Drug Enforcement Agency; on June 21, 2006, by FBI field offices around the country, including Tampa, Detroit, and Charlotte, by U.S. attorneys around the country. It has performed with very strategic results. It is important to decentralize operations such as the National Drug Intelligence Center. Everything does not have to be in Washington. It costs about a third to do it in Johnstown as it would in Washington.

When the Senator from Oklahoma says it ought to be in El Paso because all the drugs come from El Paso, that is simply not true. Drugs come into this country from Miami, from New York, from Detroit, from California. They come from everywhere.

It has been in existence for 14 years and is functioning successfully. It is not a minor matter that it has 340 jobs. Johnstown has become accustomed to having this. Johnstown, as is well known historically, has had its tough time with two major floods. It doesn't deserve another flood by having this body saying the office ought to be removed at this time.

I yield to my distinguished colleague from Scranton, PA.

Mr. CASEY. I wish to reiterate much of what Senator SPECTER already said. This center is providing important law enforcement services right now, helping out on international drug trafficking, which helps out in the fight against terrorism.

If we came to this floor every week and talked about what some Government agency said about a particular facility such as this, we would be having these votes all the time. I was the auditor of Pennsylvania. I know a lot about waste, fraud, and abuse. I know how to find it and root it out. But I also know you cannot take one Government agency's word for it. This center is providing an important service right now, in crime fighting, in keeping local law enforcement working with the Federal Government.

It is an important facility in the State of Pennsylvania. There are people there who are working hard in Johnstown, PA. This is a diversion from some other things we have been doing.

This is very important that we support this kind of facility. All the answers do not reside in Washington, DC. There are some people out there who know how to fight crime, some people out there who know how to root out and crack down on drug trafficking.

This center plays that role. I urge my colleagues to vote against this amendment.

Mr. COBURN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There are 3 minutes 11 seconds.

Mr. COBURN. What you did not hear is what is the mission of the NDIC. It has no mission. That is the problem. The agency running this center says it should be closed—for very good reasons. It does not have an international mandate. They have had people fired because they are doing things that are outside of what restricted mission they have.

The one program that works is DOSX, and those people who are functioning with DOSX have to go to wherever the information is, which they are extracting in the investigation. None of that is done in Johnstown. So if they travel, it doesn't matter where they start.

The point is, the people who work there, who have run it, the people who are managing it, and the rest of the Drug Enforcement Agency and the rest of our drug intelligence says it has no mission. It has accomplished very little. I rest my case and would appreciate a vote.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware Mr. (BIDEN) the Senator from New York (Mrs. CLINTON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 26, nays 69, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—26

Alexander	Dole	Lugar
Allard	Ensign	Martinez
Barrasso	Enzi	McConnell
Bunning	Feingold	Rockefeller
Burr	Graham	Sessions
Carper	Grassley	Sununu
Coburn	Inhofe	Thune
Cornyn	Kyl	Vitter
DeMint	Lott	

NAYS—69

Akaka	Durbin	Murkowski
Baucus	Feinstein	Murray
Bayh	Gregg	Nelson (FL)
Bennett	Hagel	Nelson (NE)
Bingaman	Harkin	Pryor
Bond	Hatch	Reed
Boxer	Hutchison	Reid
Brown	Inouye	Roberts
Byrd	Isakson	Salazar
Cantwell	Johnson	Sanders
Cardin	Kennedy	Schumer
Casey	Kerry	Shelby
Chambliss	Klobuchar	Smith
Cochran	Kohl	Snowe
Coleman	Landrieu	Specter
Collins	Lautenberg	Stabenow
Conrad	Leahy	Stevens
Corker	Levin	Tester
Craig	Lieberman	Voinovich
Crapo	Lincoln	Warner
Dodd	McCaskill	Webb
Domenici	Menendez	Whitehouse
Dorgan	Mikulski	Wyden

NOT VOTING—5

Biden	Clinton	Obama
Brownback	McCain	

The amendment (No. 2196) was rejected.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NOS. 2902, 3000, 3041, 3073, 2127, AS MODIFIED; 3088, 2983, 3076, 2991, 2989, 3081, 3078, 3104, 2133, 3077, 2265, AS MODIFIED; 3087, 2954, 2049, 2101, 2261, 2074, 2000, 2161, 2925, 2912, 2066, 2984, AS MODIFIED; 3075, AS MODIFIED; 3089, AS MODIFIED; 3090, 2993, AS MODIFIED; 2872, AS MODIFIED; 2214, AS MODIFIED; 2942, AS MODIFIED, TO AMENDMENT NO. 2011

Mr. LEVIN. Mr. President, I call up the managers' package at the desk. This package has been agreed to in our unanimous consent agreement. This is the package that is referred to in that unanimous consent agreement.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 2902

(Purpose: To provide for an enhancement of the utility of the Certificate of Release or Discharge from Active Duty of members of the Armed Forces)

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

SEC. 594. ENHANCEMENT OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY.

The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, modify the Certificate of Release or Discharge from Active Duty (Department of Defense from DD214) in order to permit a member of the Armed Forces, upon discharge or release from active duty in the Armed Forces, to elect the forwarding of the Certificate to the following:

(1) The Central Office of the Department of Veterans Affairs in Washington, District of Columbia.

(2) The appropriate office of the United States Department of Veterans in the State in which the member will first reside after such discharge or release.

AMENDMENT NO. 3000

(Purpose: To provide for the relocation of the Joint Spectrum Center in Annapolis, Maryland, to Fort Meade. Maryland, and the termination of the existing lease for the Center)

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

SEC. 2842. AUTHORITY TO RELOCATE THE JOINT SPECTRUM CENTER TO FORT MEADE, MARYLAND.

(a) AUTHORITY TO CARRY OUT RELOCATION AGREEMENT.—If deemed to be in the best interest of national security and to the physical protection of personnel and missions of the Department of Defense, the Secretary of Defense may carry out an agreement to relocate the Joint Spectrum Center, a geographically separated unit of the Defense Information Systems Agency, from Annapolis, Maryland to Fort Meade, Maryland or another military installation, subject to an agreement between the lease holder and the Department of Defense for equitable and appropriate terms to facilitate the relocation.

(b) AUTHORIZATION.—Any facility, road or infrastructure constructed or altered on a military installation as a result of the agreement must be authorized in accordance with section 2802 of title 10, United States Code.

(c) TERMINATION OF EXISTING LEASE.—Upon completion of the relocation of the Joint Spectrum Center, all right, title, and interest of the United States in and to the existing lease for the Joint Spectrum Center shall

be terminated, as contemplated under Condition 29.B of the lease.

AMENDMENT NO. 3041

(Purpose: To protect small high-tech firms)

At the end of title X, add the following:

SEC. 1070. SMALL HIGH-TECH FIRMS.

Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking ''2008'' and inserting ''2010''.

AMENDMENT NO. 3073

(Purpose: To provide for transparency and accountability in military and security contracting)

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

SEC. 876. TRANSPARENCY AND ACCOUNTABILITY IN MILITARY AND SECURITY CONTRACTING.

(a) REPORTS ON IRAQ AND AFGHANISTAN CONTRACTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, the Secretary of the Interior, the Administrator of the United States Agency for International Development, and the Director of National Intelligence shall each submit to Congress a report that contains the information, current as of the date of the enactment of this Act, as follows:

(1) The number of persons performing work in Iraq and Afghanistan under contracts (and subcontracts at any tier) entered into by departments and agencies of the United States Government, including the Department of Defense, the Department of State, the Department of the Interior, and the United States Agency for International Development, respectively, and a brief description of the functions performed by these persons.

(2) The companies awarded such contracts and subcontracts.

(3) The total cost of such contracts.

(4) A method for tracking the number of persons who have been killed or wounded in performing work under such contracts.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense, the Secretary of State, the Secretary of the Interior, the Administrator of the United States Agency for International Development, and the Director of National Intelligence should make their best efforts to compile the most accurate accounting of the number of civilian contractors killed or wounded in Iraq and Afghanistan since October 1, 2001.

(c) DEPARTMENT OF DEFENSE REPORT ON STRATEGY FOR AND APPROPRIATENESS OF ACTIVITIES OF CONTRACTORS UNDER DEPARTMENT OF DEFENSE CONTRACTS IN IRAQ, AFGHANISTAN, AND THE GLOBAL WAR ON TERROR.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth the strategy of the Department of Defense for the use of, and a description of the activities being carried out by, contractors and subcontractors working in Iraq and Afghanistan in support of Department missions in Iraq, Afghanistan, and the Global War on Terror, including its strategy for ensuring that such contracts do not—

(1) have private companies and their employees performing inherently governmental functions; or

(2) place contractors in supervisory roles over United States Government personnel.

AMENDMENT NO. 2127, AS MODIFIED

On page 236, line 8, strike ''and accounting for'' and insert ''accounting for, and keeping appropriate records of''.

On page 236, between lines 14 and 15, insert the following:

(C) a process for the registration and identification of armored vehicles, helicopters, and other military vehicles operated by contractors and subcontractors performing private security functions in an area of combat operations;

On page 236, line 15, strike ''(C)'' and insert ''(D)''.

On page 236, beginning on line 15, strike ''for the reporting of all incidents in which—'' and insert ''under which contractors are required to report all incidents, and persons other than contractors are permitted to report incidents, in which—''.

On page 236, line 19, strike ''or''.

On page 236, strike line 22 and insert the following:

ations are filled or injured; or

(iii) persons are killed or injured, or property is destroyed, as a result of conduct by contractor personnel;

On page 236, line 23, strike ''(D)'' and insert ''(E)''.

On page 236, line 23, strike ''investigating—'' and insert ''the independent review and, where appropriate, investigation of—''.

On page 236, line 25, strike ''(C)'' and insert ''(D)''.

On page 237, line 4, strike ''(E)'' and insert ''(F)''.

On page 237, line 8, strike ''(F)'' and insert ''(G)''.

On page 237, strike line 15 and insert the following:

(ii) predeployment training requirements for personnel performing private security functions in an area of combat operations, addressing the requirements of this section, resources and assistance available to contractor personnel, country information and cultural training, and guidance on working with host country nationals and military; and

On page 237, line 16, strike ''(ii)'' and insert ''(iii)''.

On page 237, line 16, strike ''rules of engagement'' and insert ''rules on the use of force''.

On page 237, line 18, strike ''and'' at the end.

On page 237, line 19, strike ''(G)'' and insert ''(H)''.

On page 237, line 21, strike the period at the end and insert the following: ''; and

(I) a process by which the Department of Defense shall implement the training requirements referred to in subparagraph (G)(ii).

(3) AVAILABILITY OF ORDERS, DIRECTIVES, AND INSTRUCTIONS.—The regulations prescribed under subsection (a) shall include mechanisms to ensure the provision and availability of the orders, directives, and instructions referred to in paragraph (2)(G)(i) to contractors and subcontractors referred to in that paragraph, including through the maintenance of a single location (including an Internet website) at or through which such contractors and subcontractors may access such orders, directives, and instructions.

On page 238, beginning on line 15, strike ''and accounting for'' and insert ''accounting for, and keeping appropriate records of''.

On page 238, strike line 23 and insert the following:

ations;

(iii) registration and identification of armored vehicles, helicopters, and other military vehicles operated by contractors and subcontractors performing private security functions in an area of combat operations; and

On page 238, line 24, strike ''(iii)'' and insert ''(iv)''.

On page 239, line 4, strike ''or''.

On page 239, strike line 7 and insert the following:

bat operations are killed or injured; or

(III) persons are killed or injured, or property is destroyed, as a result of conduct by contractor personnel;

On page 239, line 10, strike ''comply with—'' and insert ''are briefed on and understand their obligation to comply with—''.

On page 240, line 3, strike ''rules of engagement'' and insert ''rules on the use of force''.

AMENDMENT NO. 3088

(Purpose: To require a report on medical physical examinations of members of the Armed Forces before their deployment)

At the end of title VII, add the following:

SEC. 703. REPORT ON MEDICAL PHYSICAL EXAMINATIONS OF MEMBERS OF THE ARMED FORCES BEFORE THEIR DEPLOYMENT.

Not later than April 1, 2008, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the following:

(1) The results of a study of the frequency of medical physical examinations conducted by each component of the Armed Forces (including both the regular components and the reserve components of the Armed Forces) for members of the Armed Forces within such component before their deployment.

(2) A comparison of the policies of the military departments concerning medical physical examinations of members of the Armed Forces before their deployment, including an identification of instances in which a member (including a member of a reserve component) may be required to undergo multiple physical examinations, from the time of notification of an upcoming deployment through the period of preparation for deployment.

(3) A model of, and a business case analysis for, each of the following:

(A) A single predeployment physical examination for members of the Armed Forces before their deployment.

(B) A single system for tracking electronically the results of examinations under subparagraph (A) that can be shared among the military departments and thereby eliminate redundancy of medical physical examinations for members of the Armed Forces before their deployment.

AMENDMENT NO. 2983

(Purpose: To modify authorities relating to the Office of the Special Inspector General for Iraq Reconstruction)

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

SEC. 1535. MODIFICATION OF AUTHORITIES RELATED TO THE OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.

(a) TERMINATION DATE.—Subsection (o)(1) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1238; 5 U.S.C. App., note to section 8G of Public Law 95–452), as amended by section 1054(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2397), section 2 of the Iraq Reconstruction Accountability Act of 2006 (Public Law 109–440), and section 3801 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 147) is amended to read as follows:

''(1) The Office of the Inspector General shall terminate 90 days after the balance of funds appropriated or otherwise made available for the reconstruction of Iraq is less than $250,000,000.''.

(b) JURISDICTION OVER RECONSTRUCTION FUNDS.—Such section is further amended by adding at the end the following new subsection:

''(p) RULE OF CONSTRUCTION.—For purposes of carrying out the duties of the Special Inspector General for Iraq Reconstruction, any

United States funds appropriated or otherwise made available for fiscal years 2006 through 2008 for the reconstruction of Iraq, irrespective of the designation of such funds, shall be deemed to be amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.''.

(c) HIRING AUTHORITY.—Subsection (h)(1) of such section is amended by inserting after ''pay rates'' the following: '', and may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of such section)''.

AMENDMENT NO. 3076

(Purpose: To require a report on family reunions between United States citizens and their relatives in North Korea)

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

SEC. 1234. REPORT ON FAMILY REUNIONS BETWEEN UNITED STATES CITIZENS AND THEIR RELATIVES IN NORTH KOREA.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on family reunions between United States citizens and their relatives in the Democratic People's Republic of Korea.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An estimate of the current number of United States citizens with relatives in North Korea, and an estimate of the current number of such United States citizens who are more than 70 years of age.

(2) An estimate of the number of United States citizens who have traveled to North Korea for family reunions.

(3) An estimate of the amounts of money and aid that went from the Korean-American community to North Korea in 2007.

(4) A summary of any allegations of fraud by third-party brokers in arranging family reunions between United States citizens and their relatives in North Korea.

(5) A description of the efforts, if any, of the President to facilitate reunions between the United States citizens and their relatives in North Korea, including the following:

(A) Negotiating with the Democratic People's Republic of Korea to permit family reunions between United States citizens and their relatives in North Korea.

(B) Planning, in the event of a normalization of relations between the United States and the Democratic People's Republic of Korea, to dedicate personnel and resources at the United States embassy in Pyongyang, Democratic People's Republic of Korea, to facilitate reunions between United States citizens and their relatives in North Korea.

(C) Informing Korean-American families of fraudulent practices by certain third-party brokers who arrange reunions between United States citizens and their relatives in North Korea, and seeking an end to such practices.

(D) Developing standards for safe and transparent family reunions overseas involving United States citizens and their relatives in North Korea.

(6) What additional efforts in the areas described in paragraph (5), if any, the President would consider desirable and feasible.

AMENDMENT NO. 2991

(Purpose: To require the Secretary of State and the Secretary of Defense to prepare reports assessing capabilities to provide training and guidance to the command of an international intervention force that seeks to prevent mass atrocities)

At the end of title XII, add the following:

SEC. 1234. REPORTS ON PREVENTION OF MASS ATROCITIES.

(a) DEPARTMENT OF STATE REPORT.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of State shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report assessing the capability of the Department of State to provide training and guidance to the command of an international intervention force that seeks to prevent mass atrocities.

(2) CONTENT.—The report required under paragraph (1) shall include the following:

(A) An evaluation of any doctrine currently used by the Secretary of State to prepare for the training and guidance of the command of an international intervention force.

(B) An assessment of the role played by the United States in developing the ''responsibility to protect'' doctrine described in paragraphs 138 through 140 of the outcome document of the High-level Plenary Meeting of the General Assembly adopted by the United Nations in September 2005, and an update on actions taken by the United States Mission to the United Nations to discuss, promote, and implement such doctrine.

(C) An assessment of the potential capability of the Department of State and other Federal departments and agencies to support the development of new doctrines for the training and guidance of an international intervention force in keeping with the ''responsibility to protect'' doctrine.

(D) Recommendations as to the steps necessary to allow the Secretary of State to provide more effective training and guidance to an international intervention force.

(b) DEPARTMENT OF DEFENSE REPORT.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report assessing the capability of the Department of Defense to provide training and guidance to the command of an international intervention force that seeks to prevent mass atrocities.

(2) CONTENT.—The report required under paragraph (1) shall include the following:

(A) An evaluation of any doctrine currently used by the Secretary of Defense to prepare for the training and guidance of the command of an international intervention force.

(B) An assessment of the potential capability of the Department of Defense and other Federal departments and agencies to support the development of new doctrines for the training and guidance of an international intervention force in keeping with the ''responsibility to protect'' doctrine.

(C) Recommendations as to the steps necessary to allow the Secretary of Defense to provide more effective training and guidance to an international intervention force.

(D) A summary of any assessments or studies of the Department of Defense or other Federal departments or agencies relating to ''Operation Artemis'', the 2004 French military deployment and intervention in the eastern region of the Democratic Republic of Congo to protect civilians from local warring factions.

(c) INTERNATIONAL INTERVENTION FORCE.—For the purposes of this section, ''international intervention force'' means a military force that—

(1) is authorized by the United Nations; and

(2) has a mission that is narrowly focused on the protection of civilian life and the prevention of mass atrocities such as genocide.

AMENDMENT NO. 2989

(Purpose: To provide accurate monitoring and tracking of weapons provided to the Government of Iraq and other individuals and groups in Iraq)

At the end of title XV, add the following:

SEC. 1535. TRACKING AND MONITORING OF DEFENSE ARTICLES PROVIDED TO THE GOVERNMENT OF IRAQ AND OTHER INDIVIDUALS AND GROUPS IN IRAQ.

(a) EXPORT AND TRANSFER CONTROL POLICY.—The President, in coordination with the Secretary of State and the Secretary of Defense, shall implement a policy to control the export and transfer of defense articles into Iraq, including implementation of the registration and monitoring system under subsection (c).

(b) REQUIREMENT TO IMPLEMENT CONTROL SYSTEM.—Notwithstanding any other provision of law, no defense articles may be provided to the Government of Iraq or any other group, organization, citizen, or resident of Iraq until the Secretary of State certifies that a registration and monitoring system meeting the requirements set forth in subsection (c) has been established.

(c) REGISTRATION AND MONITORING SYSTEM.—The registration and monitoring system required under this section shall include—

(1) the registration of the serial numbers of all small arms provided to the Government of Iraq or to other groups, organizations, citizens, or residents of Iraq;

(2) a program of enhanced end-use monitoring of all lethal defense articles provided to such entities or individuals; and

(3) a detailed record of the origin, shipping, and distribution of all defense articles transferred under the Iraq Security Forces Fund or any other security assistance program to such entities or individuals in Iraq.

(d) REVIEW.—The President shall periodically review the items subject to the registration and monitoring requirements under subsection (c) to determine what items, if any, no longer warrant export controls under such subsection. The results of such reviews shall be reported to the Speaker of the House of Representatives and to the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Banking, Housing, and Urban Affairs of the Senate. The President may not exempt any item from such requirements until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations and the Committee on Armed Services of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1). Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.

(e) DEFINITIONS.—In this section:

(1) DEFENSE ARTICLE.—The term ''defense article'' has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403)(d)).

(2) SMALL ARMS.—The term ''small arms'' means—

(A) handguns;

(B) shoulder-fired weapons;

(C) light automatic weapons up to and including .50 caliber machine guns;

(D) recoilless rifles up to and including 106mm;

(E) mortars up to and including 81mm;

(F) rocket launchers, man-portable;

(G) grenade launchers, rifle and shoulder fired; and

(H) individually operated weapons which are portable or can be fired without special

mounts or firing devices and which have potential use in civil disturbances and are vulnerable to theft.

(f) EFFECTIVE DATE.—This section shall take effect 90 days after the date of the enactment of this Act, unless the President certifies in writing to Congress that it is in the vital interest of the United States to delay the effective date of this section by an additional period of up to 90 days, including an explanation of such vital interest, in which case the section shall take effect on such later effective date.

AMENDMENT NO. 3081

(The Amendment is printed in today's RECORD under ''Text of Amendments.)

AMENDMENT NO. 3078

(Purpose: Relating to administrative separations of members of the Armed Forces for personality disorder)

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

SEC. 594. ADMINISTRATIVE SEPARATIONS OF MEMBERS OF THE ARMED FORCES FOR PERSONALITY DISORDER.

(a) CLINICAL REVIEW OF ADMINISTRATIVE SEPARATIONS BASED ON PERSONALITY DISORDER.—

(1) REVIEW OF SEPARATIONS OF CERTAIN MEMBERS.—Not later than 30 days after the date of the enactment of this Act, and continuing until the Secretary of Defense submits to Congress the report required by subsection (b), a covered member of the Armed Forces may not, except as provided in paragraph (2), be administratively separated from the Armed Forces on the basis of a personality disorder.

(2) CLINICAL REVIEW OF PROPOSED SEPARATIONS BASED ON PERSONALITY DISORDER.—

(A) IN GENERAL.—A covered member of the Armed Forces may be administratively separated from the Armed Forces on the basis of a personality disorder under this paragraph if a clinical review of the case is conducted by a senior officer in the office of the Surgeon General of the Armed Force concerned who is a credentialed mental health provider and who is fully qualified to review cases involving maladaptive behavior (personality disorder), diagnosis and treatment of post-traumatic stress disorder, or other mental health conditions.

(B) PURPOSES OF REVIEW.—The purposes of the review with respect to a member under subparagraph (A) are as follows:

(i) To determine whether the diagnosis of personality order in the member is correct and fully documented.

(ii) To determine whether evidence of other mental health conditions (including depression, post-traumatic stress disorder, substance abuse, or traumatic brain injury) resulting from service in a combat zone may exist in the member which indicate that the separation of the member from the Armed Forces on the basis of a personality disorder is inappropriate pending diagnosis and treatment, and, if so, whether initiation of medical board procedures for the member is warranted.

(b) SECRETARY OF DEFENSE REPORT ON ADMINISTRATIVE SEPARATIONS BASED ON PERSONALITY DISORDER.—

(1) REPORT REQUIRED.—Not later than April 1, 2008, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on all cases of administrative separation from the Armed Forces of covered members of the Armed Forces on the basis of a personality disorder.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A statement of the total number of cases, by Armed Force, in which covered members of the Armed Forces have been separated from the Armed Forces on the basis of a personality disorder, and an identification of the various forms of personality order forming the basis for such separations.

(B) A statement of the total number of cases, by Armed Force, in which covered members of the Armed Forces who have served in Iraq and Afghanistan since October 2001 have been separated from the Armed Forces on the basis of a personality disorder, and the identification of the various forms of personality disorder forming the basis for such separations.

(C) A summary of the policies, by Armed Forces, controlling administrative separations of members of the Armed Forces based on personality disorder, and an evaluation of the adequacy of such policies for ensuring that covered members of the Armed Forces who may be eligible for disability evaluation due to mental health conditions are not separated from the Armed Forces prematurely or unjustly on the basis of a personality order.

(D) A discussion of measures being implemented to ensure that members of the Armed Forces who should be evaluated for disability separation or retirement due to mental health conditions are not prematurely or unjustly processed for separation from the Armed Forces on the basis of a personality disorder, and recommendations regarding how members of the Armed Forces who may have been so separated from the Armed Forces should be provided with expedited review by the applicable board for the correction of military records.

(c) COMPTROLLER GENERAL REPORT ON POLICIES ON ADMINISTRATIVE SEPARATION BASED ON PERSONALITY DISORDER.—

(1) REPORT REQUIRED.—Not later than June 1, 2008, the Comptroller General shall submit to Congress a report on the policies and procedures of the Department of Defense and of the military departments relating to the separation of members of the Armed Forces based on a personality disorder.

(2) ELEMENTS.—The report required by paragraph (1) shall—

(A) include an audit of a sampling of cases to determine the validity and clinical efficacy of the policies and procedures referred to in paragraph (1) and the extent, if any, of the divergence between the terms of such policies and procedures and the implementation of such policies and procedures; and

(B) include a determination by the Comptroller General of whether, and to what extent, the policies and procedures referred to in paragraph (1)—

(i) deviate from standard clinical diagnostic practices and current clinical standards; and

(ii) provide adequate safeguards aimed at ensuring that members of the Armed Forces who suffer from mental health conditions (including depression, post-traumatic stress disorder, or traumatic brain injury) resulting from service in a combat zone are not prematurely or unjustly separated from the Armed Forces on the basis of a personality disorder.

(d) COVERED MEMBER OF THE ARMED FORCES DEFINED.—In this section, the term ''covered member of the Armed Forces''includes the following:

(1) Any member of a regular component of the Armed Forces of the Armed Forces who has served in Iraq or Afghanistan since October 2001.

(2) Any member of the Selected Reserve of the Ready Reserve of the Armed Forces who served on active duty in Iraq or Afghanistan since October 2001.

AMENDMENT NO. 3104

(Purpose: To express the sense of Congress on the Air Force strategy for the replacement of the aerial refueling tanker aircraft fleet)

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

SEC. 143. SENSE OF CONGRESS ON THE AIR FORCE STRATEGY FOR THE REPLACEMENT OF THE AERIAL REFUELING TANKER AIRCRAFT FLEET.

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

(1) A properly executed comprehensive strategy to replace Air Force tankers will allow the United States military to continue to project combat capability anywhere in the world on short notice without relying on intermediate bases for refueling.

(2) With an average age of 45 years, it is estimated that it will take over 30 years to replace the KC-135 aircraft fleet with the funding currently in place.

(3) In addition to the KC-X program of record, which supports the tanker replacement strategy, the Air Force should immediately pursue that part of the tanker replacement strategy that would support, augment, or enhance the Air Force air refueling mission, such as Fee-for-Service support or modifications and upgrades to maintain the viability of the KC-135 aircraft force structure as the Air Force recapitalizes the tanker fleet.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the timely modernization of the Air Force aerial refueling tanker fleet is a vital national security priority; and

(2) in furtherance of meeting this priority, the Secretary of the Air Force has initiated, and Congress approves of, a comprehensive strategy for replacing the aerial refueling tanker aircraft fleet, which includes the following elements:

(A) Replacement of the aging tanker aircraft fleet with newer and improved capabilities under the KC–X program of record which supports the tanker replacement strategy, through the purchase of new commercial derivative aircraft.

(B) Sustainment and extension of the legacy tanker aircraft fleet until replacement through depot-type modifications and upgrades of KC–135 aircraft and KC–10 aircraft.

(C) Augmentation of the aerial refueling capability through aerial refueling Fee-for-Service.

AMENDMENT NO. 2133

(Purpose: To modify the calculation of back pay for persons who were approved for promotion as members of the Navy and Marine Corps while interned as prisoners of war during World War II to take into account changes in the Consumer Price Index)

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

SEC. 683. MODIFICATION OF AMOUNT OF BACK PAY FOR MEMBERS OF NAVY AND MARINE CORPS SELECTED FOR PROMOTION WHILE INTERNED AS PRISONERS OF WAR DURING WORLD WAR II TO TAKE INTO ACCOUNT CHANGES IN CONSUMER PRICE INDEX.

(a) MODIFICATION.—Section 667(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–170) is amended by adding at the end the following new paragraph:

''(3) The amount determined for a person under paragraph (1) shall be increased to reflect increases in cost of living since the basic pay referred to in paragraph (1)(B) was paid to or for that person, calculated on the

basis of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.''.

(b) RECALCULATION OF PREVIOUS PAYMENTS.—In the case of any payment of back pay made to or for a person under section 667 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 before the date of the enactment of this Act, the Secretary of the Navy shall—

(1) recalculate the amount of back pay to which the person is entitled by reason of the amendment made by subsection (a); and

(2) if the amount of back pay, as so recalculated, exceeds the amount of back pay so paid, pay the person, or the surviving spouse of the person, an amount equal to the excess.

AMENDMENT NO. 3077

(Purpose: Relating to the Littoral Combat Ship program)

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

SEC. 132. LITTORAL COMBAT SHIP (LCS) PROGRAM.

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

(1) The plan of the Chief of Naval Operations to recapitalize the United States Navy to at least 313 battle force ships is essential for meeting the long-term requirements of the National Military Strategy.

(2) Fiscal challenges to the plan to build a 313-ship fleet require that the Navy exercise discipline in determining warfighter requirements and responsibility in estimating, budgeting, and controlling costs.

(3) The 55-ship Littoral Combat Ship (LCS) program is central to the shipbuilding plan of the Navy. The inability of the Navy to control requirements and costs on the two lead ships of the Littoral Combat Ship program raises serious concerns regarding the capacity of the Navy to affordably build a 313-ship fleet.

(4) According to information provided to Congress by the Navy, the cost growth in the Littoral Combat Ship program was attributable to several factors, most notably that—

(A) the strategy adopted for the Littoral Combat Ship program, a so-called ''concurrent design-build'' strategy, was a high-risk strategy that did not account for that risk in the cost and schedule for the lead ships in the program;

(B) inadequate emphasis was placed on ''bid realism'' in the evaluation of contract proposals under the program;

(C) late incorporation of Naval Vessel Rules into the program caused significant design delays and cost growth;

(D) the Earned Value Management System of the contractor under the program did not adequately measure shipyard performance, and the Navy program organizations did not independently assess cost performance;

(E) the Littoral Combat Ship program organization was understaffed and lacking in the experience and qualifications required for a major defense acquisition program;

(F) the Littoral Combat Ship program organization was aware of the increasing costs of the Littoral Combat Ship program, but did not communicate those cost increases directly to the Assistant Secretary of the Navy in a time manner; and

(G) the relationship between the Naval Sea Systems Command and the program executive offices for the program was dysfunctional.

(b) REQUIREMENT.—In order to halt further cost growth in the Littoral Combat Ship program, costs and government liability under future contracts under the Littoral Combat Ship program shall be limited as follows:

(1) LIMITATION OF COSTS.—The total amount obligated or expended for the procurement costs of the fifth and sixth vessels in the Littoral Combat Ship (LCS) class of vessels shall not exceed $460,000,000 per vessel.

(2) PROCUREMENT COSTS.—For purposes of paragraph (1), procurement costs shall include all costs for plans, basic construction, change orders, electronics, ordnance, contractor support, and other costs associated with completion of production drawings, ship construction, test, and delivery, including work performed post-delivery that is required to meet original contract requirements.

(3) CONTRACT TYPE.—The Navy shall employ a fixed-price type contract for construction of the fifth and following ships of the Littoral Combat Ship class of vessels.

(4) LIMITATION OF GOVERNMENT LIABILITY.—The Navy shall not enter into a contract, or modify a contract, for construction of the fifth or sixth vessel of the Littoral Combat Ship class of vessels if the limitation of the Government's cost liability, when added to the sum of other budgeted procurement costs, would exceed $460,000,000 per vessel.

(5) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the amount set forth in paragraphs (1) and (4) for either vessel referred to in such paragraph by the following:

(A) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2007.

(B) The amounts of outfitting costs and costs required to complete post-delivery test and trials.

(c) REPEAL OF SUPERSEDED AUTHORITY.—Section 124 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3157) is repealed.

AMENDMENT NO. 2265, AS MODIFIED

On page 299, line 7, strike ''fifth fiscal year'' and insert ''fourth fiscal year''.

On page 299, line 9, strike ''fifth fiscal year'' and insert ''fourth fiscal year''.

AMENDMENT NO. 3087

(Purpose: To require reports on the utilization of tuition assistance benefits by members of the Armed Forces)

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

SEC. 673. REPORT ON UTILIZATION OF TUITION ASSISTANCE BY MEMBERS OF THE ARMED FORCES.

(a) REPORTS REQUIRED.—Not later than April 1, 2008, the Secretary of each military department shall submit to the congressional defense committees a report on the utilization of tuition assistance by members of the Armed Forces, whether in the regular components of the Armed Forces or the reserve components of the Armed Forces, under the jurisdiction of such military department during fiscal year 2007.

(b) ELEMENTS.—The report with respect to a military department under subsection (a) shall include the following:

(1) Information on the policies of such military department for fiscal year 2007 regarding utilization of, and limits on, tuition assistance by members of the Armed Forces under the jurisdiction of such military department, including an estimate of the number of members of the reserve components of the Armed Forces under the jurisdiction of such military department whose requests for tuition assistance during that fiscal year were unfunded.

(2) Information on the policies of such military department for fiscal year 2007 regarding funding of tuition assistance for each of the regular components of the Armed Forces and each of the reserve components of the Armed Forces under the jurisdiction of such military department.

AMENDMENT NO. 2954

(Purpose: To increase the amount authorized to repair, restore, and preserve the Lafayette Escadrille Memorial in Marnes-la-Coquette, France)

At the end of title X, add the following:

SEC. 1070. INCREASED AUTHORITY FOR REPAIR, RESTORATION, AND PRESERVATION OF LAFAYETTE ESCADRILLE MEMORIAL, MARNES-LA-COQUETTE, FRANCE.

Section 1065 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1233) is amended—

(1) in subsection (a)(2), by striking ''$2,000,000'' and inserting ''$2,500,000''; and

(2) in subsection (e), by striking ''under section 301(a)(4)''.

AMENDMENT NO. 2049

(Purpose: To modify the effective date of applicability of he commencement or receipt of non-regular service retired pay)

On page 155, beginning on line 18, strike ''the date of the enactment of this subsection'' and insert ''September 11, 2001''.

AMENDMENT NO. 2101

(Purpose: To enhance education benefits for certain members of the reserve components)

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

SEC. 673. ENHANCEMENT OF EDUCATION BENEFITS FOR CERTAIN MEMBERS OF RESERVE COMPONENTS.

(a) ACCELERATED PAYMENT OF EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.—

(1) IN GENERAL.—Chapter 1606 of title 10, United States Code, is amended by inserting after section 16131 the following new section:

''§ 16131A. Accelerated payment of educational assistance

''(a) The educational assistance allowance payable under section 16131 of this title with respect to an eligible person described in subsection (b) may, upon the election of such eligible person, be paid on an accelerated basis in accordance with this section.

''(b) An eligible person described in this subsection is a person entitled to educational assistance under this chapter who is—

''(1) enrolled in an approved program of education not exceeding two years in duration and not leading to an associate, bachelors, masters, or other degree, subject to subsection (g); and

''(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of educational assistance allowance otherwise payable with respect to the person under section 16131 of this title.

''(c)(1) The amount of the accelerated payment of educational assistance payable with respect to an eligible person making an election under subsection (a) for a program of education shall be the lesser of—

''(A) the amount equal to 60 percent of the established charges for the program of education; or

''(B) the aggregate amount of educational assistance allowance to which the person remains entitled under this chapter at the time of the payment.

''(2)(A) In this subsection, except as provided in subparagraph (B), the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced individuals who are not eligible for benefits under this chapter and who are enrolled in the program of education would be required to pay. Established

charges shall be determined on the following basis:

''(i) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

''(ii) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

''(B) In this subsection, the term 'established charges' does not include any fees or payments attributable to the purchase of a vehicle.

''(3) The educational institution providing the program of education for which an accelerated payment of educational assistance allowance is elected by an eligible person under subsection (a) shall certify to the Secretary of Veterans Affairs the amount of the established charges for the program of education.

''(d) An accelerated payment of educational assistance allowance made with respect to an eligible person under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary of Veterans Affairs receives a certification from the educational institution regarding—

''(1) the person's enrollment in and pursuit of the program of education; and

''(2) the amount of the established charges for the program of education.

''(e)(1) Except as provided in paragraph (2), for each accelerated payment of educational assistance allowance made with respect to an eligible person under this section, the person's entitlement to educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of educational assistance allowance otherwise payable with respect to the person under section 16131 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

''(2) If the monthly rate of educational assistance allowance otherwise payable with respect to an eligible person under section 16131 of this title increases during the enrollment period of a program of education for which an accelerated payment of educational assistance allowance is made under this section, the charge to the person's entitlement to educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the manner provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary of Veterans Affairs.

''(f) The Secretary of Veterans Affairs shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment of educational assistance allowance under this section. The regulations may include such elements of the regulations prescribed under section 3014A of title 38 as the Secretary of Veterans Affairs considers appropriate for purposes of this section.

''(g) The aggregate amount of educational assistance payable under this section in any fiscal year for enrollments covered by subsection (b)(1) may not exceed $4,000,000.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1606 of such title is amended by inserting after the item relating to section 16131 the following new item:

''16131A. Accelerated payment of educational assistance.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2008, and shall only apply to initial enrollments in approved programs of education after such date.

(b) ACCELERATED PAYMENT OF EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND OTHER OPERATIONS.—

(1) IN GENERAL.—Chapter 1607 of title 10, United States Code, is amended by inserting after section 16162 the following new section:

''§ 16162A. Accelerated payment of educational assistance

''(a) The educational assistance allowance payable under section 16162 of this title with respect to an eligible member described in subsection (b) may, upon the election of such eligible member, be paid on an accelerated basis in accordance with this section.

''(b) An eligible member described in this subsection is a member of a reserve component entitled to educational assistance under this chapter who is—

''(1) enrolled in an approved program of education not exceeding two years in duration and not leading to an associate, bachelors, masters, or other degree, subject to subsection (g); and

''(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of educational assistance allowance otherwise payable with respect to the member under section 16162 of this title.

''(c)(1) The amount of the accelerated payment of educational assistance payable with respect to an eligible member making an election under subsection (a) for a program of education shall be the lesser of—

''(A) the amount equal to 60 percent of the established charges for the program of education; or

''(B) the aggregate amount of educational assistance allowance to which the member remains entitled under this chapter at the time of the payment.

''(2)(A) In this subsection, except as provided in subparagraph (B), the term 'established charges', in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced individuals who are not eligible for benefits under this chapter and who are enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

''(i) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

''(ii) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

''(B) In this subsection, the term 'established charges' does not include any fees or payments attributable to the purchase of a vehicle.

''(3) The educational institution providing the program of education for which an accelerated payment of educational assistance allowance is elected by an eligible member under subsection (a) shall certify to the Secretary of Veterans Affairs the amount of the established charges for the program of education.

''(d) An accelerated payment of educational assistance allowance made with respect to an eligible member under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary of Veterans Affairs receives a certification from the educational institution regarding—

''(1) the member's enrollment in and pursuit of the program of education; and

''(2) the amount of the established charges for the program of education.

''(e)(1) Except as provided in paragraph (2), for each accelerated payment of educational assistance allowance made with respect to an eligible member under this section, the member's entitlement to educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of educational assistance allowance otherwise payable with respect to the member under section 16162 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

''(2) If the monthly rate of educational assistance allowance otherwise payable with respect to an eligible member under section 16162 of this title increases during the enrollment period of a program of education for which an accelerated payment of educational assistance allowance is made under this section, the charge to the member's entitlement to educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the manner provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary of Veterans Affairs.

''(f) The Secretary of Veterans Affairs shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment of educational assistance allowance under this section. The regulations may include such elements of the regulations prescribed under section 3014A of title 38 as the Secretary of Veterans Affairs considers appropriate for purposes of this section.

''(g) The aggregate amount of educational assistance payable under this section in any fiscal year for enrollments covered by subsection (b)(1) may not exceed $3,000,000.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1607 of such title is amended by inserting after the item relating to section 16162 the following new item:

''16162A. Accelerated payment of educational assistance.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2008, and shall only apply to initial enrollments in approved programs of education after such date.

(c) ENHANCEMENT OF EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND OTHER OPERATIONS.—

(1) ASSISTANCE FOR THREE YEARS CUMULATIVE SERVICE.—Subsection (c)(4)(C) of section 16162 of title 10, United States Code, is amended by striking ''for two continuous years or more.'' and inserting ''for—

''(i) two continuous years or more; or

''(ii) an aggregate of three years or more.''.

(2) CONTRIBUTIONS FOR INCREASED AMOUNT OF EDUCATIONAL ASSISTANCE.—Such section is further amended by adding at the end the following new subsection:

''(f) CONTRIBUTIONS FOR INCREASED AMOUNT OF EDUCATIONAL ASSISTANCE.—(1)(A) Any individual eligible for educational assistance

under this section may contribute amounts for purposes of receiving an increased amount of educational assistance as provided for in paragraph (2).

''(B) An individual covered by subparagraph (A) may make the contributions authorized by that subparagraph at any time while a member of a reserve component, but not more frequently than monthly.

''(C) The total amount of the contributions made by an individual under subparagraph (A) may not exceed $600. Such contributions shall be made in multiples of $20.

''(D) Contributions under this subsection shall be made to the Secretary concerned. Such Secretary shall deposit any amounts received as contributions under this subsection into the Treasury as miscellaneous receipts.

''(2) Effective as of the first day of the enrollment period following the enrollment period in which an individual makes contributions under paragraph (1), the monthly amount of educational assistance allowance applicable to such individual under this section shall be the monthly rate otherwise provided for under subsection (c) increased by—

''(A) an amount equal to $5 for each $20 contributed by such individual under paragraph (1) for an approved program of education pursued on a full-time basis; or

''(B) an appropriately reduced amount based on the amount so contributed as determined under regulations that the Secretary of Veterans Affairs shall prescribe, for an approved program of education pursued on less than a full-time basis.''.

AMENDMENT NO. 2261

(Purpose: To extend the period of entitlement to educational assistance for certain members of the Selected Reserve affected by force shaping initiatives)

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

SEC. 673. EXTENSION OF PERIOD OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE FOR CERTAIN MEMBERS OF THE SELECTED RESERVE AFFECTED BY FORCE SHAPING INITIATIVES.

Section 16133(b)(1)(B) of title 10, United States Code, is amended by inserting ''or the period beginning on October 1, 2007, and ending on September 30, 2014,'' after ''December 31, 2001,''.

AMENDMENT NO. 2074

(Purpose: To modify the time limit for use of entitlement to educational assistance for reserve component members supporting contingency operations and other operations)

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

SEC. 673. MODIFICATION OF TIME LIMIT FOR USE OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND OTHER OPERATIONS.

(a) MODIFICATION.—Section 16164(a) of title 10, United States Code, is amended by striking ''this chapter while serving—'' and all that follows and inserting ''this chapter—

''(1) while the member is serving—

''(A) in the Selected Reserve of the Ready Reserve, in the case of a member called or ordered to active service while serving in the Selected Reserve; or

''(B) in the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve); and

''(2) in the case of a person who separates from the Selected Reserve of the Ready Reserve after completion of a period of active service described in section 16163 of this title and completion of a service contract under other than dishonorable conditions, during the 10-year period beginning on the date on which the person separates from the Selected Reserve.''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 16165(a) of such title is amended to read as follows:

''(2) when the member separates from the Ready Reserve as provided in section 16164(a)(1) of this title, or upon completion of the period provided for in section 16164(a)(2) of this title, as applicable.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375), to which such amendments relate.

AMENDMENT NO. 2000

(Purpose: To repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation and to modify the date of paid-up coverage under the Survivor Benefit Plan)

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

SEC. 656. REPEAL OF REQUIREMENT OF REDUCTION OF SURVIVOR BENEFIT PLAN SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—

(1) IN GENERAL.—Subchapter II of chapter 73 of title 10, United States Code, is amended as follows:

(A) In section 1450, by striking subsection (c).

(B) In section 1451(c)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENTS.—Such subchapter is further amended as follows:

(A) In section 1450—

(i) by striking subsection (e); and

(ii) by striking subsection (k).

(B) In section 1451(g)(1), by striking subparagraph (C).

(C) In section 1452—

(i) in subsection (f)(2), by striking ''does not apply—'' and all that follows and inserting ''does not apply in the case of a deduction made through administrative error.''; and

(ii) by striking subsection (g).

(D) In section 1455(c), by striking '', 1450(k)(2),''.

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

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (f) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY FOR DEPENDENT CHILDREN.—Section 1448(d)(2) of such title is amended—

(1) by striking ''DEPENDENT CHILDREN.—'' and all that follows through ''In the case of a member described in paragraph (1),'' and inserting ''DEPENDENT CHILDREN.—In the case of a member described in paragraph (1),''; and

(2) by striking subparagraph (B).

(e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY ELIGIBLE SPOUSES.—The Secretary of the military department concerned shall restore annuity eligibility to any eligible surviving spouse who, in consultation with the Secretary, previously elected to transfer payment of such annuity to a surviving child or children under the provisions of section 1448(d)(2)(B) of title 10, United States Code, as in effect on the day before the effective date provided under subsection (f). Such eligibility shall be restored whether or not payment to such child or children subsequently was terminated due to loss of dependent status or death. For the purposes of this subsection, an eligible spouse includes a spouse who was previously eligible for payment of such annuity and is not remarried, or remarried after having attained age 55, or whose second or subsequent marriage has been terminated by death, divorce or annulment.

(f) EFFECTIVE DATE.—The sections and the amendments made by this section shall take effect on the later of—

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

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

SEC. 657. EFFECTIVE DATE OF PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(j) of title 10, United States Code, is amended by striking ''October 1, 2008'' and inserting ''October 1, 2007''.

(b) RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN.—Section 1436a of such title is amended by striking ''October 1, 2008'' and inserting ''October 1, 2007''.

AMENDMENT NO. 2161

(Purpose: To repeal the annual limit on the number of Reserve Officers' Training Corps scholarships under the Army Reserve and Army National Guard financial assistance program)

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

SEC. 555. REPEAL OF ANNUAL LIMIT ON NUMBER OF ROTC SCHOLARSHIPS UNDER ARMY RESERVE AND ARMY NATIONAL GUARD FINANCIAL ASSISTANCE PROGRAM.

Section 2107a(h) of title 10, United States Code, is amended by striking ''not more than 416 cadets each year under this section, to include'' and inserting ''each year under this section''.

AMENDMENT NO. 2925

(Purpose: To provide that veterans with service-connected disabilities rated as total by virtue of unemployability shall be covered by the termination of the phase-in of concurrent receipt of retired pay and veterans disability compensation for military retirees).

At the end of subtitle D of title VI, insert the following:

SEC. 656. INCLUSION OF VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AS TOTAL BY REASON OF UNEMPLOYABILITY UNDER TERMINATION OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.

(a) INCLUSION OF VETERANS.—Section 1414(a)(1) of title 10, United States Code, is amended by striking ''except that'' and all that follows and inserting ''except that payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following:

''(A) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

''(B) A qualified retiree receiving veterans' disability compensation at the rate payable

for a 100 percent disability by reason of a determination of individual unemployability.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2004.

AMENDMENT NO. 2912

(Purpose: Relating to increases in charges and fees for medical care)

At the end of title VII, add the following:

SEC. 703. ONE-YEAR EXTENSION OF PROHIBITION ON INCREASES IN CERTAIN HEALTH CARE COSTS FOR MEMBERS OF THE UNIFORMED SERVICES.

(a) CHARGES UNDER CONTRACTS FOR MEDICAL CARE.—Section 1097(e) of title 10, United States Code, is amended by striking ''September 30, 2007'' and inserting ''September 30, 2008''.

(b) CHARGES FOR INPATIENT CARE.—Section 1086(b)(3) of such title is amended by striking ''September 30, 2007'' and inserting ''September 30, 2008''.

(c) PREMIUMS UNDER TRICARE COVERAGE FOR CERTAIN MEMBERS IN THE SELECTED RESERVE.—Section 1076d(d)(3) of such title is amended by striking ''September 30, 2007'' and inserting ''September 30, 2008''.

(d) PREMIUMS UNDER TRICARE COVERAGE FOR MEMBERS OF THE READY RESERVE.—Section 1076b(e)(3) of such title is amended by striking ''September 30, 2007'' and inserting ''September 30, 2008''.

SEC. 704. TEMPORARY PROHIBITION ON INCREASE IN COPAYMENTS UNDER RETAIL PHARMACY SYSTEM OF PHARMACY BENEFITS PROGRAM.

During the period beginning on October 1, 2007, and ending on September 30, 2008, the cost sharing requirements established under paragraph (6) of section 1074g(a) of title 10, United States Code, for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) of such section may not exceed amounts as follows:

(1) In the case of generic agents, $3.

(2) In the case of formulary agents, $9.

(3) In the case of nonformulary agents, $22.

SEC. 705. SENSE OF CONGRESS ON FEES AND ADJUSTMENTS UNDER THE TRICARE PROGRAM.

It is the sense of Congress that—

(1) career members of the uniformed services and their families endure unique and extraordinary demands, and make extraordinary sacrifices, over the course of 20-year to 30-year careers in protecting freedom for all Americans;

(2) these demands and sacrifices are such that few Americans are willing to accept them for a multi-decade career;

(3) a primary benefit of enduring the extraordinary sacrifices inherent in a military career is a system of exceptional retirement benefits that a grateful Nation provides for those who choose to subordinate much of their personal life to the national interest for so many years;

(4) proposals to compare cash fees paid by retired military members and their families to fees paid by civilians fail to recognize adequately that military members prepay the equivalent of very large advance premiums for health care in retirement through their extended service and sacrifice, in addition to cash fees, deductibles, and copayments;

(5) the Department of Defense and the Nation have a committed obligation to provide health care benefits to active duty, National Guard, Reserve and retired members of the uniformed services and their families and survivors that considerably exceeds the obligation of corporate employers to provide health care benefits to their employees; and

(6) the Department of Defense has options to constrain the growth of health care spending in ways that do not disadvantage retired members of the uniformed services, and should pursue any and all such options as a first priority.

AMENDMENT NO. 2066

(Purpose: To provide for the retention of reimbursement for the provision of reciprocal fire protection services)

At the end of title X, add the following:

SEC. 1070. RETENTION OF REIMBURSEMENT FOR PROVISION OF RECIPROCAL FIRE PROTECTION SERVICES.

Section 5 of the Act of May 27, 1955 (chapter 105; 69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by striking ''Funds'' and inserting ''(a) Funds''; and

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

''(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.''.

AMENDMENT NO. 2984, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. NATIONAL CENTER FOR HUMAN PERFORMANCE.

The scientific institute to perform research and education in medicine and related sciences to enhance human performance that is located at the Texas Medical Center shall hereafter be known as the ''National Center for Human Performance''. Nothing in this section shall be construed to convey on such institute status as a center of excellence under the Public Health Service Act or as a Center of the National Institutes of Health under Title IV of such act.

AMENDMENT NO. 3075, AS MODIFIED

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

SEC. 1535. IMPROVISED EXPLOSIVE DEVICE PROTECTION FOR MILITARY VEHICLES.

(a) PROCUREMENT OF ADDITIONAL MINE RESISTANT AMBUSH PROTECTED VEHICLES.—

(1) ADDITIONAL AMOUNT FOR ARMY OTHER PROCUREMENT.—The amount authorized to be appropriated by section 1501(5) for other procurement for the Army is hereby increased by $23,600,000,000.

(2) AVAILABILITY FOR PROCUREMENT OF ADDITIONAL MRAP VEHICLES.—Of the amount authorized to be appropriated by section 1501(5) for other procurement for the Army, as increased by paragraph (1), $23,600,000,000 may be available for the procurement of 15,200 Mine Resistant Ambush Protected (MRAP) Vehicles.

AMENDMENT NO. 3089, AS MODIFIED

At the end of title VII, add the following:

SEC. 703. CONTINUATION OF TRANSITIONAL HEALTH BENEFITS FOR MEMBERS OF THE ARMED FORCES PENDING RESOLUTION OF SERVICE-RELATED MEDICAL CONDITIONS.

Section 1145(a) of title 10, United States Code, is amended—

(1) in paragraph (3), by striking ''Transitional health care'' and inserting ''Except as provided in paragraph (6), transitional health care''; and

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

''(6) A member who has a medical condition relating to service on active duty that warrants further medical care shall be entitled to receive medical and dental care for such medical condition as if the member were a member of the armed forces on active duty until such medical condition is resolved.

''(C) The Secretary concerned shall ensure that the Defense Enrollment and Eligibility Reporting System (DEERS) is continually updated in order to reflect the continuing entitlement of members covered by subparagraph (B) to the medical and dental care referred to in that subparagraph.''.

AMENDMENT NO. 3090

(Purpose: To enhance the computation of years of service for purposes of retired pay for non-regular service)

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

SEC. 656. COMPUTATION OF YEARS OF SERVICE FOR PURPOSES OF RETIRED PAY FOR NON-REGULAR SERVICE.

Section 12733(3) of title 10, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking the period and inserting ''before the year of service that includes October 30, 2007; and''; and

(3) by adding at the end the following new subparagraph:

''(D) 130 days in the year of service that includes October 30, 2007, and any subsequent year of service.''.

AMENDMENT NO. 2993, AS MODIFIED

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

SEC. 1535. SENSE OF CONGRESS ON THE CAPTURE OF OSAMA BIN LADEN AND THE AL QAEDA LEADERSHIP.

It is the Sense of Congress that it should be the policy of the United States Government that the foremost objective of United States counterterrorist operations is to protect United States persons and property from terrorist attacks by capturing or killing Osama bin Laden, Ayman al-Zawahiri, and other leaders of al Qaeda and destroying the al Qaeda network.

AMENDMENT NO. 2872

Subtitle D—Iraq Refugee Crisis

SEC. 1541. SHORT TITLE.

This subtitle may be cited as the ''Refugee Crisis in Iraq Act''.

SEC. 1542. PROCESSING MECHANISMS.

(a) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall establish or use existing refugee processing mechanisms in Iraq and in countries, where appropriate, in the region in which—

(1) aliens described in section 1543 may apply and interview for admission to the United States as refugees; and

(2) aliens described in section 1544(b) may apply and interview for admission to United States as special immigrants.

(b) SUSPENSION.—The Secretary of State, in consultation with the Secretary of Homeland of Security, may suspend in-country processing for a period not to exceed 90 days. Such suspension may be extended by the Secretary of State upon notification to the Committee on the Judiciary of the Senate, the Committee on Foreign Relations of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Affairs of the House of Representatives. The Secretary of State shall submit a report to the Committees of jurisdiction outlining the basis of such suspension and any extensions.

(c) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit a report that contains the plans and assessment described in paragraph (2) to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on the Judiciary of the House of Representatives; and

(D) the Committee on Foreign Affairs of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (I) shall—

(A) describe the Secretary's plans to establish the processing mechanisms described in subsection (a);

(B) contain an assessment of in-country processing that makes use of videoconferencing; and

(C) describe the Secretary of State's diplomatic efforts to improve issuance of entry and exit visas or permits to United States personnel and refugees.

SEC. 1543. UNITED STATES REFUGEE PROGRAM PROCESSING PRIORITIES.

(a) IN GENERAL.—Refugees of special humanitarian concern eligible for Priority 2 processing under the refugee resettlement priority system who may apply directly to the United States Admission Program shall include—

(1) Iraqis who were or are employed by, or worked for the United States Government, in Iraq;

(2) Iraqis who establish to the satisfaction of the Secretary of State in coordination with the Secretary of Homeland Security that they are or were employed in Iraq by—

(A) a media or nongovernmental organization headquartered in the United States; or

(B) an organization or entity closely associated with the United States mission in Iraq that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement; and

(3) spouses, children, and parents who are not accompanying or following to join and sons, daughters, and siblings of aliens described in paragraph (1) or section 1544(b)(1); and

(4) Iraqis who are members of a religious or minority community, have been identified by the Department of State with the concurrence of the Department of Homeland Security as a persecuted group, and have close family members (as described in section 201 (b)(2)(A)(i) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i) and 1153(a))) in the United States.

(b) IDENTIFICATION OF OTHER PERSECUTED GROUPS.— The Secretary of State and the Secretary of Homeland Security are authorized to identify other Priority 2 groups in Iraq.

(c) INELIGIBLE ORGANIZATIONS AND ENTITIES.—Organizations and entities described in section 1543 shall not include any that appear on the Department of the Treasury's list of Specially Designated Nationals or any entity specifically excluded by the Secretary of Homeland Security, after consultation with the Department of State and relevant intelligence agencies.

(d) Aliens under this section who qualify for Priority 2 processing must meet the requirements of section 207 of the Immigration and Nationality Act.

SEC. 1544. SPECIAL IMMIGRANT STATUS FOR CERTAIN IRAQIS.

(a) IN GENERAL.—Subject to subsection (c)(1) and notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary of Homeland Security may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)'', if the alien—

(1) or an agent acting on behalf of the alien, submits to the Secretary a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

(2) is otherwise eligible to receive an immigrant visa;

(3) is otherwise admissible to the United States for permanent residence (excluding the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)); and

(4) cleared a background check and appropriate screening, as determined by the Secretary of Homeland Security.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this subsection if the alien—

(A) is a national of Iraq;

(B) was or is employed by, or worked for the United States Government in Iraq, in or after 2003, for a period of not less than 1 year;

(C) provided faithful and valuable service to the United States Government, which is documented in a positive recommendation or evaluation from the employee's senior supervisor. Such evaluation or recommendation must be accompanied by approval from the Chief of Mission or his designee who shall conduct a risk assessment of the alien and an independent review of records maintained by the hiring organization or entity to confirm employment and faithful and valuable service prior to approval of a petition under this section; and

(D) has experienced or is experiencing an ongoing serious threat as a consequence of their employment by the United States Government.

(2) SPOUSES AND CHILDREN.—An alien is described in this subsection if the alien is—

(A) the spouse or child of a principal alien described in paragraph (l); and

(B) is accompanying or following to join the principal alien in the United States.

(3) TREATMENT OF SURVIVING SPOUSE OR CHILD—An alien shall also fall within subsection (b) of section 1544 of this Act, if—

(1) the alien was the spouse or child of a principal alien who had an approved petition with the Secretary of Homeland Security or the Secretary of State pursuant to section 1544 of this Act or section 1059 of the National Defense Authorization Act for the Fiscal Year 2006, Public Law 109–163, as amended by Public Law 110–36, which included the alien as an accompanying spouse or child; and

(2) due to the death of the petitioning alien, such petition was revoked or terminated (or otherwise rendered null) after its approval.

(c) NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—The total number of principal aliens who may be provided special immigrant status under this section may not exceed 5,000 per year for each of the 5 fiscal years beginning after the date of the enactment of this Act. The authority provided by subsection (a) of this section shall expire on September 30 of the fiscal year that is the fifth fiscal year beginning after the date of enactment of this Act.

(2) EXCLUSION FROM NUMERICAL LIMITATIONS.—Aliens provided special immigrant status under this section shall not be counted against any numerical limitation under sections 201(d), 202(a), or 203 (b)(4) of the Immigration and Nationality Act (8 U.S.C. 115l(d), 1 152(a), and 1 1 53(b)(4)).

(3) CARRY FORWARD.—If the numerical limitation under paragraph (1) is not reached during a given fiscal year, the numerical limitation under paragraph (1) for the following fiscal year shall be increased by a number equal to the difference between—

(A) the number of visas authorized under paragraph (1) for the given fiscal year; and

(B) the number of principal aliens provided special immigrant status under this section during the given fiscal year.

(d) VISA AND PASSPORT ISSUANCE AND FEES.—Neither the Secretary of State nor the Secretary of Homeland Security may charge an alien described in subsection (b) any fee in connection with an application for, or issuance of, a special immigrant visa. The Secretary of State shall make a reasonable effort to ensure that aliens described in this section who are issued special immigrant visas are provided with the appropriate series Iraqi passport necessary to enter the United States.

(e) PROTECTION OF ALIENS.—The Secretary of State, in consultation with other relevant Federal agencies, shall make a reasonable effort to provide an alien described in this section who is applying for a special immigrant visa with protection or the immediate removal from Iraq, if possible, of such alien if the Secretary determines after consultation that such alien is in imminent danger.

(f) DEFINITIONS.—The terms defined in this Act shall have the same meaning as those terms in the Immigration and Nationality Act.

(g) SAVINGS PROVISION.—Nothing in this section may be construed to affect the authority of the Secretary of Homeland Security under section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163).

SEC. 1545. MINISTER COUNSELORS FOR IRAQI REFUGEES AND INTERNALLY DISPLACED PERSONS.

(a) IN GENERAL.—The Secretary of State shall establish in the embassy of the United States located in Baghdad, Iraq, a Minister Counselor for Iraqi Refugees and Internally Displaced Persons (referred to in this section as the ''Minister Counselor for Iraq'').

(b) DUTIES.—The Minister Counselor for Iraq shall be responsible for the oversight of processing for resettlement of persons considered Priority 2 refugees of special humanitarian concern, special immigrant visa programs in Iraq, and the development and implementation of other appropriate policies and programs concerning Iraqi refugees and internally displaced persons. The Minister Counselor for Iraq shall have the authority to refer persons to the United States refugee resettlement program.

(c) DESIGNATION OF MINISTER COUNSELORS.—The Secretary of State shall designate in the embassies of the United States located in Cairo, Egypt; Amman, Jordan; Damascus, Syria; and Beirut, Lebanon a Minister Counselor to oversee resettlement to the United States of persons considered Priority 2 refugees of special humanitarian concern in those countries to ensure their applications to the United States refugee resettlement program are processed in an orderly manner and without delay.

SEC. 1546. COUNTRIES WITH SIGNIFICANT POPULATIONS OF DISPLACED IRAQIS.

(a) IN GENERAL.—With respect to each country with a significant population of displaced Iraqis, including Iraq, Jordan, Egypt, Syria, Turkey, and Lebanon, the Secretary of State shall—

(1) as appropriate, consult with other countries regarding resettlement of the most vulnerable members of such refugee populations; and

(2) as appropriate, except where otherwise prohibited by the laws of the United States, develop mechanisms in and provide assistance to countries with a significant population of displaced Iraqis to ensure the well-being and safety of such populations in their host environments.

(b) NUMERICAL LIMITATIONS.—In determining the number of Iraqi refugees who should be resettled in the United States under sections (a) and (b) of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the President shall consult nongovernmental organizations that have a

presence in Iraq or experience in assessing the problems faced by Iraqi refugees.

(c) ELIGIBILITY FOR ADMISSION AS REFUGEE.—No alien shall be denied the opportunity to apply for admission under this section solely because such alien qualifies as an immediate relative or is eligible for classification as a special immigrant.

SEC. 1547. DENIAL OR TERMINATION OF ASYLUM.

(a) MOTION TO REOPEN.—Section 208(b) of the Immigration and Nationality Act is amended by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—An applicant for asylum or withholding of removal, whose claim was denied by an immigration judge solely on the basis of changed country conditions on or after March 1, 2003, may file a motion to reopen his or her claim not later than 6 months after the date of the enactment of the Refugee Crisis in Iraq Act if the applicant—

''(A) is a national of Iraq; and

''(B) remained in the United States on such date of enactment.''.

(b) PROCEDURE.—A motion filed under this section shall be made in accordance with section 240(c)(7)(A) and (B) of the Immigration and Nationality Act.

SEC. 1548. REPORTS.

(a) SECRETARY OF HOMELAND SECURITY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report containing plans to expedite the processing of Iraqi refugees for resettlement to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on the Judiciary of the House of Representatives; and

(D) the Committee on Foreign Affairs of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) detail the plans of the Secretary for expediting the processing of Iraqi refugees for resettlement including through temporary expansion of the Refugee Corps of United States Citizenship and Immigration Services;

(B) describe the plans of the Secretary for increasing the number of Department of Homeland Security personnel devoted to refugee processing in the noted regions;

(C) describe the plans of the Secretary for enhancing existing systems for conducting background and security checks of persons applying for Special Immigrant Visas and of persons considered Priority 2 refugees of special humanitarian concern under this subtitle, which enhancements shall support immigration security and provide for the orderly processing of such applications without delay; and

(D) detail the projections of the Secretary, per country and per month, for the number of refugee interviews that will be conducted in fiscal year 2008 and fiscal year 2009.

(b) PRESIDENT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to Congress an unclassified report, with a classified annex if necessary, which includes—

(1) an assessment of the financial, security, and personnel considerations and resources necessary to carry out the provisions of this subtitle;

(2) the number of aliens described in section 1543(1);

(3) the number of such aliens who have applied for special immigrant visas;

(4) the date of such applications; and

(5) in the case of applications pending for more than 6 months, the reasons that visas have not been expeditiously processed.

(c) REPORT ON IRAQI NATIONALS EMPLOYED BY THE UNITED STATES GOVERNMENT AND FEDERAL CONTRACTORS IN IRAQ.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, the Administrator of the United States Agency for International Development, the Secretary of the Treasury, and the Secretary of Homeland Security shall—

(A) review internal records and databases of their respective agencies for information that can be used to verify employment of Iraqi nationals by the United States Government; and

(B) solicit from each prime contractor or grantee that has performed work in Iraq since March 2003 under a contract, grant, or cooperative agreement with their respective agencies that is valued in excess of $25,000 information that can be used to verify the employment of Iraqi nationals by such contractor or grantee.

(2) INFORMATION REQUIRED.—To the extent data is available, the information referred to in paragraph (1) shall include the name and dates of employment of, biometric data for, and other data that can be used to verify the employment of, each Iraqi national that has performed work in Iraq since March 2003 under a contract, grant, or cooperative agreement with an executive agency.

(3) EXECUTIVE AGENCY DEFINED.—In this subsection, the term ''executive agency'' has the meaning given the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(d) REPORT ON ESTABLISHMENT OF DATABASE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, the Administrator of the United States Agency for International Development, the Secretary of the Treasury, and the Secretary of Homeland Security, shall submit to Congress a report examining the options for establishing a unified, classified database of information related to contracts, grants, or cooperative agreements entered into by executive agencies for the performance of work in Iraq since March 2003, including the information described and collected under subsection (c), to be used by relevant Federal departments and agencies to adjudicate refugee, asylum, special immigrant visa, and other immigration claims and applications.

(e) NONCOMPLIANCE REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit a report to Congress that describes—

(1) the inability or unwillingness of any contractors or grantees to provide the information requested under subsection (c); and

(2) the reasons for failing to provide such information.

SEC. 1549. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

AMENDMENT NO. 2214, AS MODIFIED

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

SEC. 143. SENSE OF CONGRESS ON RAPID FIELDING OF ASSOCIATE INTERMODAL PLATFORM SYSTEM AND OTHER INNOVATIVE LOGISTICS SYSTEMS.

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

(1) Use of the Associate Intermodal Platform (AIP) pallet system, developed two years ago by the United States Transportation Command, could save the United States as much as $1,300,000 for every 1,000 pallets deployed.

(2) The benefits of the usage of the Associate Intermodal Platform pallet system include the following:

(A) The Associate Intermodal Platform pallet system can be used to transport cargo alone within current International Standard of Organization containers and thereby provide further savings in costs of transportation of cargo.

(B) The Associate Intermodal Platform pallet system has successfully passed rigorous testing by the United States Transportation Command at various military installations in the United States, at a Navy testing lab, and in the field in Iraq, Kuwait, and Antarctica.

(C) By all accounts the Associate Intermodal Platform pallet system has performed well beyond expectations and is ready for immediate production and deployment.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department of Defense should—

(1) rapidly field innovative logistic systems such as the Associated Intermodal Platform pallet system; and

(2) seek to fully procure innovative logistic systems such as the Associate Intermodal Platform pallet system in future budgets.

AMENDMENT NO. 2942, AS MODIFIED

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

SEC. 1044. REPORT AND MASTER INFRASTRUCTURE RECAPITALIZATION PLAN REGARDING CHEYENNE MOUNTAIN AIR STATION, COLORADO.

(a) REPORT ON RELOCATION OF NORTH AMERICAN AEROSPACE DEFENSE COMMAND CENTER.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the relocation of the North American Aerospace Defense command center and related functions from Cheyenne Mountain Air Station, Colorado, to Peterson Air Force Base, Colorado.

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) an analysis comparing the total costs associated with the relocation, including costs determined as part of ongoing security-related studies of the relocation, to anticipated operational benefits from the relocation; and

(B) a detailed explanation of those backup functions that will remain located at Cheyenne Mountain Air Station, and how those functions planned to be transferred out of Cheyenne Mountain Air Station, including the Space Operations Center, will maintain operational connectivity with their related commands and relevant communications centers.

(b) MASTER INFRASTRUCTURE RECAPITALIZATION PLAN.—

(1) IN GENERAL.—Not later than March 16, 2008, the Secretary of the Air Force shall submit to Congress a master infrastructure recapitalization plan for Cheyenne Mountain Air Station.

(2) CONTENT.—The plan required under paragraph (1) shall include—

(A) A description of the projects that are needed to improve the infrastructure required for supporting missions associated with Cheyenne Mountain Air Station; and

(B) a funding plan explaining the expected timetable for the Air Force to support such projects.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute amendment to Calendar No. 189, H.R. 1585, National Defense Authorization Act for Fiscal Year 2008.

Mitch McConnell, C.S. Bond, David Vitter, Lisa Murkowski, R.F. Bennett, Tom Coburn, Lindsey Graham, Jon Kyl, Wayne Allard, John Thune, Norm Coleman, Richard Burr, Ted Stevens, Jeff Sessions, J.M. Inhofe, Thad Cochran, Michael B. Enzi.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on Amendment No. 2011, offered by the Senator from Michigan, Mr. LEVIN, in the nature of a substitute to H.R. 1585, the National Defense Authorization Act for Fiscal Year 2008, shall be brought to a close?

Mr. LEVIN. Mr. President, just 30 seconds. I hope the Senate will vote for cloture. Let me give the rundown of amendments we have now adopted.

One hundred ninety-one amendments have now been adopted through either clearance in voice vote or rollcall. We have a lot of amendments left. We will be here tomorrow, and we will be here on Monday. If cloture is invoked, we will work the best we can to see if we can get some germane amendments adopted, even those that we agree by unanimous consent may not be germane but should be adopted. I hope cloture is invoked. We will be here tomorrow and Monday to work on amendments.

Mr. FEINGOLD. Mr. President, I support many of the priorities in this bill, and I do not think the Senate should extend debate on it indefinitely. But, if we invoke cloture on the bill, as it currently stands, we will be ensuring that it contains no language to bring our involvement in the Iraq war to a close. That would be a mistake. The war in Iraq is taking a tremendous toll on our servicemembers and our military preparedness—not to mention our national security and our pocketbook. It is irresponsible for Congress to pass legislation authorizing the activities of the Department of Defense that fails to bring our troops home and this war to an end.

The PRESIDING OFFICER. The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 89, nays 6, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—89

Akaka	Dorgan	McConnell
Alexander	Durbin	Menendez
Allard	Ensign	Mikulski
Barrasso	Enzi	Murkowski
Baucus	Feinstein	Murray
Bayh	Graham	Nelson (FL)
Bennett	Grassley	Nelson (NE)
Bingaman	Gregg	Pryor
Bond	Hagel	Reed
Boxer	Harkin	Reid
Brown	Hatch	Roberts
Bunning	Hutchison	Rockefeller
Burr	Inhofe	Salazar
Byrd	Inouye	Schumer
Cantwell	Isakson	Sessions
Cardin	Johnson	Shelby
Carper	Kennedy	Smith
Casey	Kerry	Snowe
Chambliss	Klobuchar	Specter
Coburn	Kohl	Stabenow
Cochran	Kyl	Stevens
Coleman	Landrieu	Sununu
Conrad	Lautenberg	Tester
Corker	Levin	Thune
Cornyn	Lieberman	Vitter
Craig	Lincoln	Warner
Crapo	Lott	Webb
DeMint	Lugar	Whitehouse
Dole	Martinez	Wyden
Domenici	McCaskill	

NAYS—6

Collins	Feingold	Sanders
Dodd	Leahy	Voinovich

NOT VOTING—5

Biden	Clinton	Obama
Brownback	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 89, the nays are 6. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Virginia.

Mr. WARNER. Mr. President, we are now in the postcloture status.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 3058

(Purpose: To provide for certain public-private competition requirements)

Mr. REID. Mr. President, on behalf of Senators KENNEDY and MIKULSKI, I call up amendment No. 3058.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KENNEDY and Ms. MIKULSKI, proposes an amendment numbered 3058.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

(The amendment is printed in the RECORD of Wednesday, September 26, 2007 under ''Text of Amendments.'')

AMENDMENT NO. 3109 TO AMENDMENT NO. 3058

Mr. REID. Mr. President, I call up amendment No. 3109.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KENNEDY, proposes an amendment numbered 3109 to amendment No. 3058.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In the amendment strike all after the first word and insert the following:

SEC. 358. MODIFICATION TO PUBLIC-PRIVATE COMPETITION REQUIREMENTS BEFORE CONVERSION TO CONTRACTOR PERFORMANCE.

(a) COMPARISON OF RETIREMENT SYSTEM COSTS.—Section 2461(a)(1) of title 10, United States Code, is amended—

(1) in subparagraph (F), by striking ''and'' at the end;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph (G):

''(G) requires that the contractor shall not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

''(i) not making an employer-sponsored health insurance plan (or payment that could be used in lieu of such a plan), health savings account, or medical savings account, available to the workers who are to be employed to perform the function under the contract;

''(ii) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees of the Department under chapter 89 of title 5; or

''(iii) offering to such workers a retirement benefit that, in any year, costs less than the annual retirement cost factor applicable to civilian employees of the Department of Defense under chapter 84 of title 5; and''.

(b) CONFORMING AMENDMENTS.—Such title is further amended—

(1) by striking section 2467; and

(2) in section 2461—

(A) by redesignating subsections (b) through (d) as subsections (c) through (e); and

(B) by inserting after subsection (a) the following new subsection (b):

''(b) REQUIREMENT TO CONSULT DOD EMPLOYEES.—(1) Each officer or employee of the Department of Defense responsible for determining under Office of Management and Budget Circular A–76 whether to convert to contractor performance any function of the Department of Defense—

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

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

''(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

''(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

''(C) The Secretary of Defense shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in subparagraph (B) for purposes of consultation required by paragraph (1).''.

(c) TECHNICAL AMENDMENTS.—Section 2461 of such title, as amended by subsection (a), is further amended—

(1) in subsection (a)(1)—

(A) in subparagraph (B), by inserting after ''2003'' the following: '', or any successor circular''; and

(B) in subparagraph (D), by striking ''and reliability'' and inserting '', reliability, and timeliness''; and

(2) in subsection (c)(2), as redesignated under subsection (b)(2), by inserting ''of'' after ''examination''.

SEC. 359. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT BUDGET CIRCULAR A–76.

(a) ELIGIBILITY TO PROTEST PUBLIC-PRIVATE COMPETITIONS.—Section 3551(2) of title 31, United States Code, is amended to read as follows:

''(2) The term 'interested party'—

''(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

''(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 with respect to the performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, includes—

''(i) any official who submitted the agency tender in such competition; and

''(ii) any one individual who, for the purpose of representing the Federal employees engaged in the performance of the activity or function for which the public-private competition is conducted in a protest under this subchapter that relates to such public-private competition, has been designated as the agent of the Federal employees by a majority of such employees.''.

(b) EXPEDITED ACTION.—

(1) IN GENERAL.—Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

''SEC. 3557. EXPEDITED ACTION IN PROTESTS OF PUBLIC-PRIVATE COMPETITIONS.

''For any protest of a public-private competition conducted under Office of Management and Budget Circular A–76 with respect to the performance of an activity or function of a Federal agency, the Comptroller General shall administer the provisions of this subchapter in the manner best suited for expediting the final resolution of the protest and the final action in the public-private competition.''.

(2) CLERICAL AMENDMENT.—The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

''3557. Expedited action in protests of public-private competitions.''.

(c) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(5) If an interested party who is a member of the private sector commences an action described in paragraph (1) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding the performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, then an interested party described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.''.

(d) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (c)), shall apply to—

(1) a protest or civil action that challenges final selection of the source of performance of an activity or function of a Federal agency that is made pursuant to a study initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004; and

(2) any other protest or civil action that relates to a public-private competition initiated under Office of Management and Budget Circular A–76, or to a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, on or after the date of the enactment of this Act.

SEC. 360. PUBLIC-PRIVATE COMPETITION REQUIRED BEFORE CONVERSION TO CONTRACTOR PERFORMANCE.

(a) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''SEC. 43. PUBLIC-PRIVATE COMPETITION REQUIRED BEFORE CONVERSION TO CONTRACTOR PERFORMANCE.

''(a) PUBLIC-PRIVATE COMPETITION.—(1) A function of an executive agency performed by 10 or more agency civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition that—

''(A) formally compares the cost of performance of the function by agency civilian employees with the cost of performance by a contractor;

''(B) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003, or any successor circular;

''(C) includes the issuance of a solicitation;

''(D) determines whether the submitted offers meet the needs of the executive agency with respect to factors other than cost, including quality, reliability, and timeliness;

''(E) examines the cost of performance of the function by agency civilian employees and the cost of performance of the function by one or more contractors to demonstrate whether converting to performance by a contractor will result in savings to the Government over the life of the contract, including—

''(i) the estimated cost to the Government (based on offers received) for performance of the function by a contractor;

''(ii) the estimated cost to the Government for performance of the function by agency civilian employees; and

''(iii) an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract;

''(F) requires continued performance of the function by agency civilian employees unless the difference in the cost of performance of the function by a contractor compared to the cost of performance of the function by agency civilian employees would, over all performance periods required by the solicitation, be equal to or exceed the lesser of—

''(i) 10 percent of the personnel-related costs for performance of that function in the agency tender; or

''(ii) $10,000,000; and

''(G) examines the effect of performance of the function by a contractor on the agency mission associated with the performance of the function.

''(2) A function that is performed by the executive agency and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, shall not be considered a new requirement.

''(3) In no case may a function being performed by executive agency personnel be—

''(A) modified, reorganized, divided, or in any way changed for the purpose of exempting the conversion of the function from the requirements of this section; or

''(B) converted to performance by a contractor to circumvent a civilian personnel ceiling.

''(b) REQUIREMENT TO CONSULT EMPLOYEES.—(1) Each civilian employee of an executive agency responsible for determining under Office of Management and Budget Circular A–76 whether to convert to contractor performance any function of the executive agency—

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

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

''(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

''(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

''(C) The head of each executive agency shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in paragraph (2)(B) for purposes of consultation required by paragraph (1).

''(c) CONGRESSIONAL NOTIFICATION.—(1) Before commencing a public-private competition under subsection (a), the head of an executive agency shall submit to Congress a report containing the following:

''(A) The function for which such public-private competition is to be conducted.

''(B) The location at which the function is performed by agency civilian employees.

''(C) The number of agency civilian employee positions potentially affected.

''(D) The anticipated length and cost of the public-private competition, and a specific identification of the budgetary line item from which funds will be used to cover the cost of the public-private competition.

''(E) A certification that a proposed performance of the function by a contractor is not a result of a decision by an official of an executive agency to impose predetermined constraints or limitations on such employees in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees.

''(2) The report required under paragraph (1) shall include an examination of the potential economic effect of performance of the function by a contractor on—

''(A) agency civilian employees who would be affected by such a conversion in performance; and

''(B) the local community and the Government, if more than 50 agency civilian employees perform the function.

''(3)(A) A representative individual or entity at a facility where a public-private competition is conducted may submit to the head of the executive agency an objection to the public private competition on the grounds that the report required by paragraph (1) has not been submitted or that the certification required by paragraph (1)(E) is

not included in the report submitted as a condition for the public private competition. The objection shall be in writing and shall be submitted within 90 days after the following date:

''(i) In the case of a failure to submit the report when required, the date on which the representative individual or an official of the representative entity authorized to pose the objection first knew or should have known of that failure.

''(ii) In the case of a failure to include the certification in a submitted report, the date on which the report was submitted to Congress.

''(B) If the head of the executive agency determines that the report required by paragraph (1) was not submitted or that the required certification was not included in the submitted report, the function for which the public-private competition was conducted for which the objection was submitted may not be the subject of a solicitation of offers for, or award of, a contract until, respectively, the report is submitted or a report containing the certification in full compliance with the certification requirement is submitted.

''(d) EXEMPTION FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED PERSONS.—This section shall not apply to a commercial or industrial type function of an executive agency that—

''(1) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

''(2) is planned to be changed to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped persons in accordance with that Act.

''(e) INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.''.

(b) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

''Sec. 43. Public-private competition required before conversion to contractor performance.''.

SEC. 361. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Under Secretary of Defense for Personnel and Readiness shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees on a regular basis for new work and work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) have been performed by a contractor pursuant to a contract that was awarded on a noncompetitive basis, either a contract for a function once performed by Federal employees that was awarded without the conduct of a public-private competition or a contract that was last awarded without the conduct of an actual competition between contractors; or

(D) have been performed poorly by a contractor because of excessive costs or inferior quality, as determined by a contracting officer within the last five years .

(3) DEADLINE FOR ISSUANCE OF GUIDELINES.—The Secretary of Defense shall implement the guidelines required under paragraph (1) by not later than 60 days after the date of the enactment of this Act.

(4) ESTABLISHMENT OF CONTRACTOR INVENTORY.—The Secretary of Defense shall establish an inventory of Department of Defense contracts to determine which contracts meet the criteria set forth in paragraph (2).

(b) NEW REQUIREMENTS.—

(1) LIMITATION ON REQUIRING PUBLIC-PRIVATE COMPETITION.—No public-private competition may be required for any Department of Defense function before—

(A) the commencement of the performance by civilian employees of the Department of Defense of a new Department of Defense function;

(B) the commencement of the performance by civilian employees of the Department of Defense of any Department of Defense function described in subparagraphs (B) through (D) of subsection (a)(2); or

(C) the expansion of the scope of any Department of Defense function performed by civilian employees of the Department of Defense.

(2) CONSIDERATION OF FEDERAL GOVERNMENT EMPLOYEES.—The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary may use the flexible hiring authority available to the Secretary under the National Security Personnel System, as established pursuant to section 9902 of title 5, United States Code, to facilitate the performance by civilian employees of the Department of Defense of functions described in subsection (b).

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term ''National Security Personnel System'' means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term ''inherently governmental function'' has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

(f) CONFORMING REPEAL.—The National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) is amended by striking section 343.

SEC. 362. RESTRICTION ON OFFICE OF MANAGEMENT AND BUDGET INFLUENCE OVER DEPARTMENT OF DEFENSE PUBLIC-PRIVATE COMPETITIONS.

(a) RESTRICTION ON OFFICE OF MANAGEMENT AND BUDGET.—The Office of Management and Budget may not direct or require the Secretary of Defense or the Secretary of a military department to prepare for, undertake, continue, or complete a public-private competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A–76, or any other successor regulation, directive, or policy.

(b) RESTRICTION ON SECRETARY OF DEFENSE.—The Secretary of Defense or the Secretary of a military department may not prepare for, undertake, continue, or complete a public-private competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A–76, or any other successor regulation, directive, or policy by reason of any direction or requirement provided by the Office of Management and Budget.

SEC. 363. PUBLIC-PRIVATE COMPETITION AT END OF PERIOD SPECIFIED IN PERFORMANCE AGREEMENT NOT REQUIRED.

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

''(4) A military department or defense agency may not be required to conduct a public-private competition under Office of Management and Budget Circular A–76 or any other provision of law at the end of the period specified in the performance agreement entered into in accordance with this section for any function of the Department of Defense performed by Department of Defense civilian employees.''.

This section shall take effect one day after the date of this bill's enactment.

Mr. WARNER. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, we are now on the bill in a postcloture status. The distinguished chairman, Senator LEVIN, is here. I am here. We are prepared to deal with whatever amendments come forward this evening and, again, we will be here tomorrow.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to speak on behalf of the Kennedy-Mikulski amendment, as amended by the distinguished majority leader.

I know the hour is late so I will not speak at length, but I will speak with passion about what this amendment is all about.

This is about contracting out. I am here to join in an amendment that protects our Civil Service, protects our taxpayers, and protects Government workers. I think we would all agree that America needs an independent Civil Service and that our Federal employees are on the front lines every day working hard for America. This administration's plan for privatization is a quota-driven plan that costs money, morale, and the integrity of the Civil Service. It forces Federal employees into unfair competition and forces them to spend time and money competing for their jobs instead of doing their jobs. The administration has stacked the deck against Federal employees with their A–76 competitions, but I am here to level the playing field along with my colleagues.

This amendment is simple. It helps Federal employees compete for their jobs and at the same time, makes sure

the Federal Government saves money. My other colleagues who are cosponsors will focus on different pieces of this amendment, but I am here to talk about three specific parts.

First of all, this amendment saves taxpayers money. When the administration passed these new quota-driven bounty-hunting A–76 rules, contractors were not even required to show they would save the Government any money—but we thought that was the point of it—so we had some private contracts that actually cost the Government more money than if Federal employees were doing the work.

Now, the amendment that is pending would require that all contracts save $10 million or 10 percent. You must save money: $10 million or 10 percent. So Federal workers will not be losing their jobs to contractor bids that do not even save the Government or the taxpayers money.

Second, it deals with the issue of health and retirement benefits. Right now, a private contractor can win a bid on Federal work simply because they provide either no health and retirement benefits or skimpy or Spartan benefits, this is bad for Federal employees and bad for the contractors doing the work.

This amendment would prohibit contractors from winning a bid if the only cost savings are from bad or no benefits. This is to prevent bagging benefits in order to win the contract. This helps level the playing field for Federal employees who have to submit their own best bids, but they have to include these health and retiree benefits.

Number 3, really, this is what I think is crucial, and I hope my colleagues from the other side of the aisle will hear this. This amendment eliminates privatization quotas. Remember, the new Bush rules are quota driven. It makes those who are pushing the A–76 in an agency the equivalent of a bounty hunter.

Now, let's deal with the word ''quota.'' I have heard a lot about quotas in my day, usually from the other side in a very pejorative way. Hey, what happened to goals and timetables? I thought we did not go for quotas in this Senate. I thought we were for goals and timetables. Remember discussions on affirmative action? ''We don't want no quotas.'' Well, I do not want quotas in privatization. Quite frankly, I do not even want goals and timetables in privatization. But OMB imposes privatization quotas on all Federal agencies, forcing them to conduct A–76 competitions on as many as 150,000 jobs each year. What a huge waste of money. These quota-driven bounty hunters force these wasteful A–76 reviews, even on agencies that do not want to do them or in categories that give them pause to pursue. It wastes time. It wastes taxpayers' dollars.

This amendment would stop OMB from using quotas to force agencies to conduct these privatization reviews. This would not prevent agencies from contracting out work. It would simply allow Federal agencies to make their own decisions about when to use the A–76 process.

Now let me be very clear. I am not opposed to contracting out. I am not opposed to privatization. In my own State it has worked well. Look at Goddard Space Flight Center. We have 3,000 civil service jobs, but 9,000 private contractor jobs. In this way, we get incredible value for our space dollar. I am proud of them both, and they work well together. They serve the Nation well.

But the way this administration is going about privatization does not work. We need this amendment because the way contracting is being pursued is irresponsible. It even puts our Nation's security at risk.

I want to give one specific issue—contracting out at Walter Reed. Before my dear colleague Senator Paul Sarbanes left, we were on this floor fighting an A–76 contract for contracting out facilities management for people who handle the grounds and so on at Walter Reed. We challenged that A–76 because there had been over three to six appeals. Each time the Federal employees won. However, the administration pushed and pushed and pushed. As we were battling it out on the floor, I read a letter from the colonel who said: If you contract this out, I am concerned there will be a degradation of service at Walter Reed.

Well—guess what—we lost the amendment. Walter Reed contracted out its facilities management. We went from 300 employees, who kept Walter Reed tip top for our wounded warriors, down to 50 people, and we ended up with a national scandal.

Now, you tell me, what did we gain from that contracting out? How could you look in the eyes of a wounded warrior at Walter Reed and at a hospital that was ridden with mold and rot, for which we all had to go out and pound on the table and pound on our chest about the outrage? We could have stopped the scandal at Walter Reed if we had stopped that contracting out—300 people to 50. Why did it take 300 people at Walter Reed? Because it is an older building. It is several buildings. Our wounded warriors were in hospitals that made international headlines because we could not take care of our own.

Well, I am now taking care of this contracting out. So this amendment is the ''remember the Walter Reed scandal'' amendment. I hope my colleagues will join with me. Yes, we will privatize where appropriate. Yes, we will privatize where we will get value for our dollar. But I don't want any kind of privatization that ends up in a national scandal and a national disgrace.

I urge my colleagues to vote for this amendment.

Mr. FEINGOLD. Mr. President, I am deeply concerned about the threat posed by Iran, but I voted against the amendment offered by Senators KYL and LIEBERMAN because it could be interpreted as an authorization to keep U.S. troops in Iraq indefinitely to police the Iraqi civil war and engage in a proxy war with Iran. Maintaining a significant U.S. troop presence in Iraq is undermining our ability to deter Iran as it increases its influence in Iraq, becomes bolder in its nuclear aspirations, and continues to support Hezbollah. The administration needs to end its myopic focus on Iraq and develop comprehensive, effective strategies for dealing with Iran and the other serious challenges we face around the world.

Mr. President, I voted against Senator BIDEN's amendment because, while we should support a comprehensive political settlement in Iraq, the U.S. Government shouldn't tell the Iraqi people how to run their country.

Ms. MIKULSKI. Mr. President, I am proud to cosponsor Senator BIDEN's amendment calling on the United States to actively support a Federal system of government in Iraq.

The brutal reality is that Iraq today is being torn apart by sectarian violence. The Maliki government in Baghdad is too weak and too corrupt to lead Iraq's Sunni, Shia and Kurdish communities to the political reconciliation they need to end the fighting. Iraq is being torn apart by civil war, and U.S. military forces are caught in the middle.

It is clear to me that President Bush has no strategy for ending the war in Iraq. It is up to Congress to provide the way forward to bring stability to Iraq and to bring our troops home. Our military has done everything we have asked them to do, valiantly and skillfully. But the experts all agree: there is no military solution in Iraq. We need a comprehensive political settlement that gives the Iraqi people control over their own fate and allows our troops to come home.

Senator BIDEN has proposed a plan to maintain a united Iraq by decentralizing it. Rather than putting our troops between warring factions, this plan would give the Kurds, Sunni and Shia control over their own land and people, while leaving a central government in Baghdad responsible for protecting common national Iraqi interests. This plan has five major parts.

Step one is establishing three autonomous regions in Iraq with a functional central government in Baghdad. Each region would have authority over its own domestic laws, administration, and internal security. The central government would control border defense, foreign policy, and oil revenues. This would give Iraq's sectarian groups control over their own destiny and ensure that Iraq does not splinter into pieces, creating regional chaos.

Step two of the Biden plan is to secure the cooperation of Iraq's Sunni minority. The Sunni Arabs in Iraq do not have access to the same oil wealth enjoyed by the Kurds in the north and the Shia in the south. Under this plan, Iraq's central Government would guarantee the Sunni's economic viability

by pledging 20-percent of Iraq's oil revenue. It would address Sunni political concerns by allowing former members of the Baath party to join Iraq's national Government. Iraq's Sunnis must have confidence that they can prosper and thrive in a peaceful Iraq, so they will lay down their arms and end their destructive insurgency.

Step three of this plan is to call on the international community and Iraq's neighbors to help stabilize Iraq by accepting this federal arrangement and respecting Iraq's borders and sovereignty. Iraq will need strong support from the international community to ensure that its neighbors do not try to expand their influence into any of the three autonomous regions created under this federalist system.

Step four calls for the withdrawal of most U.S. military forces from Iraq. We would leave a small but effective residual force behind to help Iraq's security forces combat terrorism and protect Iraq's borders, but most U.S. forces would be out of Iraq before the end of 2008. We know there is no military solution to Iraq's current problems, and we know the armed militias that are tearing Iraq apart will never lay down their arms as long as the U.S. military has a large presence in their country. Withdrawing most U.S. troops will demonstrate to the Iraqi people that they must take responsibility for building a peaceful, stable Iraq. A small but lethal contingent of U.S. forces that remains either in Iraq or nearby can help the Iraqis combat terrorism and deter mischief by Iraq's neighbors.

Finally, the Biden plan calls for robust international support for reconstruction in Iraq. This economic assistance must be conditioned on respect for minority and women's rights. The international community has an interest in seeing a vital, healthy Iraq, but we should use our resources to help Iraq build a society based on equality for all. By providing economic opportunities for every Iraqi, we can help end the violence and build a strong, stable Iraq.

We know that President Bush has no plan for stabilizing Iraq or ending the war. The Biden plan can lead to a lasting political solution in Iraq that stops the violence and allows our military forces to come home. I am proud to support it, and I am proud to cosponsor this amendment.

Mr. DOMENICI. Mr. President, I want to take a moment to inform the Senate about amendment No. 2981. I greatly appreciate Chairman LEVIN's and Ranking Member McCain's cooperation in including it in the managers' package.

My amendment to the Defense authorization bill calls for a review of the Department of Energy's strategic plan for advanced computing. This review would be completed by the independent scientific advisory group and assess where the Department is headed in this important area.

The measure focuses attention on the essential role our national laboratories play in advancing the state of the art for high performance computing a vital area for our national security and scientific leadership.

Our laboratories have been instrumental in pressing the limits of raw computing power and creating more sophisticated simulation capabilities.

Since the early days of scientific computing and continuing through the development of today's advanced parallel computing systems, the laboratories pioneered the development of high performance computing and software development. From developing advanced computing architectures and algorithms to effective means for storing and viewing the enormous amounts of data generated by these machines, the laboratories have made high performance computing a reality.

These capabilities have become a requirement for certifying the nation's nuclear weapons stockpile without nuclear testing. They also find application far outside laboratory walls.

The Stockpile Stewardship Program was created as the alternative to underground nuclear testing, to ensure that our nuclear weapons systems would remain safe, secure and reliable. Doing so without nuclear testing required significant investments in computer modeling and simulation.

This investment has paid enormous dividends. Every year, computing power increases at a pace set by America's national laboratories. The world's current fastest supercomputer is Lawrence Livermore's ''Blue Gene,'' which recently exceeded 280 ''teraflops'' or trillions of calculations per second. Oak Ridge's ''Jaguar'' system and Sandia National Laboratory's ''Red Storm'' are second and third, each exceeding 100 teraflops.

The applications go well beyond security and basic science. The laboratories have worked hard to transition these capabilities to academia and industry, simulating complex industrial processes and their environmental impact including global climate change.

Collaborations with the private sector have also driven down the cost, so that now high performance does not mean high expense. This has had an enormous impact, making advanced computing within the reach of an ever wider circle of users including the Department of Energy's Office of Science.

At the labs today, not only do these computers run advanced experimental models that give us confidence in our nuclear deterrent, but they also help us decipher the human genome and develop improved medicines. Advanced computing has also helped Sandia engineers understand the safety risks to the Space Shuttle, when the foam from the fuel tank hit and damaged the heat tiles.

We will continue to use advanced computing to support engineering design work to ensure that our bridges and infrastructure are safe, as well as filter massive amounts of data in an effort to predict where terrorists are planning to attack next.

These achievements did not happen by accident. They required planning, commitment and follow through.

Unfortunately, I am concerned that we may be losing this focus and commitment to support long term research on advance computing architectures and continue the search for even greater simulation capabilities. The Department of Energy and the National Nuclear Security Administration appear not to have a coordinated strategy for advancing the state-of-the-art in computing and instead propose to actually reduce computing capacity within the laboratory system. I believe this is a mistake.

In the Senate Energy and Water Development appropriations bill for fiscal year 2008, Chairman DORGAN and I have proposed to establish a joint program office for high performance computing led by the NNSA Administrator and the Under Secretary for Science. This office will have the primary responsibility of ensuring a well balanced portfolio of computing platforms for the DOE and the Nation.

The proposed office will develop a high performance computing technology roadmap and acquisition strategy for the DOE. I strongly believe that DOE and NNSA must pool their resources and establish an advanced computing R&D program. A long term, Department-wide strategy is necessary to ensure that the world class simulation capabilities within the complex are maintained and investments are made to drive innovation. If the past success of the program is a predictor, there will be amazing new technological innovations and the cost of computing will fall like a stone. This will ensure that universities, laboratories, U.S. businesses and law enforcement will have the computing capability necessary for their success.

We must continue to raise the bar, giving our best and brightest new targets to aim for, ensuring that America will retain its technical leadership in advanced computing.

I would like to pay tribute to the men and women of Sandia, Los Alamos and Livermore National labs and their private sector counterparts at Cray, IBM, and Intel, and the Department of Energy and the NNSA. These individuals have worked extraordinarily hard to solve complex computing architecture and software challenges. This work has paid off and we must remain committed to future excellence in this field.

Mr. President, I ask unanimous consent that a listing of the world's fastest computers be printed in the RECORD. I would like for my colleagues to note that 8 of the top 10 computers are located at U.S. Department of Energy national labs and universities and this would not be the case except for the investments made by the Department of Energy.

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

TOP 10 FASTEST SUPERCOMPUTERS IN THE WORLD (JUNE 2007)*

Name, Location—Speed (TFlops/s).

1. Blue Gene/L (IBM), Lawrence Livermore (DOE)—280.6.
2. Jaguar (Cray), Oak Ridge (DOE)—101.7.
3. Red Storm (Cray), Sandia (DOE)—101.4
4. Blue Gene Watson (IBM), IBM Thomas Watson—Research Center—91.2.
5. New York Blue (IBM), Stony Brook/Brookhaven (DOE)—82.1.
6. ASC Purple (IBM), Lawrence Livermore (DOE)—75.7.
7. eService Blue Gene (IBM), Rensselaer Polytechnic Institute (Troy, NY)—73.0.
8. Abe (Dell), NSF–NCSA—62.6
9. MareNostrum (IBM), Barcelona Supercomputing Center—62.6.
10. HLRB–II (SGI), Leibniz Rechenzentrum—56.5.

*Ranking from the TOP500 Project (http://www.top500.org)

Mr. ENZI. Mr. President, I wish to express my concern about the current agenda of the U.S. Senate.

For about 16 days, we have been debating the National Defense Authorization Act for fiscal year 2008. I do not think that any Member of this Chamber believes this is an unimportant or throwaway piece of legislation. This bill is about our troops and our veterans. It is about their health care. It is about their equipment. It is about how we treat those individuals who have put on the uniforms of our Armed Forces and served our Nation.

The Defense bill before us authorizes $24.6 billion for the defense health program, including a $1.9 billion adjustment to fund TRICARE benefits. The bill includes authorization for the purchase of upgrades to Bradley fighting vehicles and the purchase of Stryker vehicles. This legislation authorized research into technology that will keep our troops safer while they carry out their current missions and research into medical technology that will help with battlefield diagnostics and care for any wounded warrior.

In the midst of considering this troop-related bill, we are now considering amendments on items completely unrelated to the men and women in uniform. This kind of political gamesmanship is precisely why congressional approval ratings are at an all-time low.

Are we going to provide the resources our men and women in the military need by passing this Defense bill or are we going to stuff this bill so full of nondefense policy and programs that the legislation blows up like a makeshift terrorist explosive device? The majority party is in charge of getting critical bills through, yet they are delaying passage of these bills by trying to empty their outbox full of controversial issues. Unfortunately, the authors of these unrelated special interest amendments have chosen the latter.

The first amendment set to come before us for a vote is legislation on hate crimes. When it is the appropriate time to be debating the merits of a hate crime bill then I will debate that. Debating it in relation to a bill we need in order to provide for our military is not the appropriate time. We have also been told to expect amendments related to immigration. The Senate earlier this year spent weeks on immigration legislation—that is where debate on that amendment should occur.

As my colleague from Texas, Senator CORNYN, stated, there is a time and a place for everything. A bill drafted to address our national defense and our troops is not the place for these amendments.

Instead of focusing on the needs of our troops in the field, our wounded warriors needing medical attention, and our veterans who have served us all, the authors of these amendments seek to distract our attention and delay progress on this bill.

I sincerely hope all Members of the Senate will put these issues aside for a more appropriate time for debate and let us proceed on improving the lives of our troops. Let's put our troops first on the Senate agenda.

Mr. CONRAD. Mr. President, I was pleased to join my co-chair of the Senate Tanker Caucus, the senior Senator from Utah, in introducing amendment No. 2895. And I am very glad that the distinguished ranking member of the Armed Services Committee chose to join with our caucus in preparing a compromise amendment, No. 3104, that makes clear how crucial recapitalizing our tanker fleet is to our national security.

I thank Senator MCCAIN and Senator LEVIN for their leadership on this issue and their willingness to accept this amendment.

In October of last year, the Secretary and Chief of Staff of the Air Force made a very important announcement. They declared that their top acquisition priority for the future is the replacement of our Nation's aerial refueling tanker fleet. This program could cost about $13 billion over the next 5 years, and perhaps $100 billion over the next three decades.

The senior Senator from Utah and I joined forces to form a caucus in support of this vital objective. We believe that updating our aerial tanker fleet is crucial if we are to continue to be able to project American military power around the globe.

The U.S. national security strategy depends on a robust air refueling capability, as do our coalition partners. No other nation in the world has a comparable capability. The U.S. advantage in tankers is at the center of almost all the other strategic capabilities of our Air Force.

Yet today, our tanker fleet is the oldest part of the Air Force inventory making maintenance difficult and expensive. The KC–135 makes up over 90 percent of our refueling capability, but the average age of that fleet is over 45 years. The ''E-Model'' aircraft have the oldest engines and are rapidly declining in utility. Their mission capable rates have dropped significantly, and their cost-per-flying hour has increased.

Despite generations of meticulous maintenance, these tankers are getting toward the end of their economic service life. Uncertainty about corrosion problems creates a significant vulnerability—we could find a serious problem in a few of these aircraft that could result in the whole fleet being grounded.

And that would have catastrophic results, as General Michael Moseley made very clear in comments on October 12. ''In this global business we're in, the single point of failure of an air bridge, or the single point failure for global intelligence, surveillance and reconnaissance, or the single point of failure for global strike is the tanker,'' he said. ''To be able to bridge the Atlantic, to be able to bridge the Pacific, or to be able to let business in the theater be persistent business in the theater, it's the tanker.''

To reverse that vulnerability, the Air Force is taking steps to replace these tankers. The tanker caucus supports that effort. The Air Force is also taking steps to make sure that a portion of the current tanker fleet is kept viable as they work to develop and buy the next generation tanker. This amendment supports that effort as well, by specifically referencing the Air Force's strategy to modify and upgrade an appropriate portion of the KC–135 fleet to ensure that it remains viable as the Air Force waits for new tankers to be delivered. Nothing in this amendment would further constrain the Air Force's ability to retire the oldest tankers as they deem necessary.

Finally, this amendment recognizes that the procurement of aerial refueling on a fee-for-service basis may also end up being part of the solution to preventing a temporary gap in tanker capability—though I doubt that it will make up a major portion of our overall tanker capacity.

The Air Force is working through two competing submissions for tanker replacement in response to the request for proposals it issued last year. This full, free and open competition will help to achieve the best value possible for the taxpayer on this major program.

As General Moseley noted, ''It's important to get started'' on this important acquisition program. The time is right to begin recapitalizing this vital national asset. The Air Force predicts that a funding shortfall this year would likely lead to a 6 to 9 month delay in fielding the new tankers.

The original amendment that Senator HATCH and I offered was co-sponsored by Senators DORGAN, GREGG, ROBERTS, SUNUNU, CANTWELL and INHOFE. It simply expressed the sense of the Congress that timely replacement of the Air Force tanker fleet is a vital national security priority, and presented the reasons for that judgment. The McCain-Conrad amendment makes the same point in expressing

that modernizing the tanker force is a vital national security priority.

While some members and some committees differ on the amount of funding that they believe is required to carry out this program fiscal year 2008, I believe that the Senate can agree that carrying out this program is a vital national security priority. I appreciate my colleagues' support for this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, is there any objection if we proceed to morning business?

Mr. WARNER. Mr. President, there is no objection on this side. We will resume the bill tomorrow morning, I presume, around 10 o'clock.

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

Would that be enough, I ask Senator BROWN? Ten minutes? You can ask unanimous consent to extend it.

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

The Senator from Ohio.

PRIVATIZATION

Mr. BROWN. Mr. President, although we are in morning business, I wish to add some comments to what Senator MIKULSKI said about privatization because what we have seen throughout our Government—whether it is Medicare, the efforts to privatize, which, unfortunately, have been partially successful at privatizing but not so successful in serving the public, serving seniors, and the totally unsuccessful effort to privatize Social Security—what we have seen in public education, what we have seen in the prison system in my State of Ohio, what we seen in several kinds of efforts to privatize have often resulted in more taxpayer dollars being spent, a reduction in service, to be sure, less efficiency, and less accountability.

So her amendment is right on the mark. Her efforts in privatization generally are very important. I thank the senior Senator from Maryland on that.

TRADE POLICY

Mr. BROWN. Mr. President, our Nation's haphazard trade policy has done plenty of damage to Ohio's economy, to our workers—from Steubenville to Cambridge, from Portsmouth to Wauseon—to our manufacturers—in Bryan and Cleveland and Akron, and Lorain—and to our small businesses in Dayton, Cincinnati, and Springfield.

Recent news reports of tainted foods and toxic toys reveal another hazard of ill-conceived and unenforced trade rules. They subject American families, American children, to products that can harm them—that in some cases can actually kill them.

Our trade rules encourage unsafe imports. Our gap-ridden food and product inspection system lets those imports into our country. Our lax requirements for importers let those products stay on the shelves. And our foot dragging on requiring country-of-origin labeling leaves consumers in the dark. It is a lethal—all too lethal, all too often—combination.

With a total lack of protections in our trade policy, we do not just import goods from another country, we import the lax safety standards of other countries. If we relax basic health and safety rules to accommodate Bush-style, NAFTA-modeled trade deals, of course, we are going to find lead paint on our toys and toxins in our toothpaste.

Just think of it this way: When we trade with a country, when we buy $288 billion of products from China, for instance—a country that puts little emphasis on safe drinking water, on clean air, on protections for their own workers, on consumer protection, and then they sell those products to the United States, why would they care about products, consumer products, toys that are safe or food products that are safe, when they do not care about that in their own country for their own workers and for their own consumers?

Add to the fact that U.S. companies put tremendous pressure on their Chinese subcontractors to cut the cost of production to cut their own costs, and the Chinese are going to use lead paint because it is cheaper. They are going to cut corners on safety because it is cheaper.

At the same time, the Bush administration has weakened our Food and Drug Administration, Department of Agriculture, and Consumer Product Safety Commission rules, and that is compounded even further because they have cut the number of inspectors. So why should we be surprised when we see toys in our children's bedrooms that are dangerous, or when we see vitamins in our drugstores and food in our grocery stores that are contaminated?

Due to trade agreements, there are now more than 230 countries and more than 200,000 foreign manufacturers exporting FDA-related goods—FDA-regulated goods—to American consumers.

Before NAFTA, we imported 1 million lines of food. Now we import 18 million lines of food. One million lines of food in 1993; today it is 18 million lines of food.

Unfortunately, trade deals put limits on the safety standards we can require for imports and even how much we can inspect imports. I will say that again. We pass a trade agreement with another country. It puts limits on our own safety standards, and it puts limits on how much we can inspect those imports.

Our trade policy should prevent these problems—not bring them on.

Now the President, though, wants new trade agreements with Peru, Panama, South Korea, and Colombia—all based on the same failed trade model that brought us China, that has brought us NAFTA, that has brought us the Central American Free Trade Agreement.

This Chamber will soon consider—maybe even next week—a trade agreement with Peru. Some may wonder why we are entering into new trade agreements right now considering we have had five straight years of record annual trade deficits.

When I first ran for Congress in 1992, on the other side of the Capitol, to be a Member of the House of Representatives, our trade deficit was $38 billion. Today, it exceeds $800 billion. Our trade deficit with China was barely double digits 15 years ago. Today, it exceeds $250 billion.

The NAFTA/CAFTA trade model has driven down wages and working conditions for workers in Marion and Mansfield and Bucyrus and Canton and all across the United States and abroad.

This kind of trade has torn apart families' health care and pension benefits. It undermines our capacity even to produce equipment vital to our national security.

Contrary to promoting stability in Peru and the Andean region, as this trade agreement's supporters would say, these trade agreements are actually more likely to increase poverty and inequality.

This month, the United Nations Conference on Trade and Development issued a report warning developing countries—poorer nations that are doing trade agreements with us—to be wary of bilateral and regional free trade deals. The U.N. Report cited the North American Free Trade Agreement as an example of a trade agreement that may have short-term benefits for poor countries but has long-term harm. We know what NAFTA did to Mexico's middle class. We know what NAFTA did to its rural farmers. Well over 1.3 million farmers were displaced since the North American Free Trade Agreement in Mexico.

Let's look at Peru for a moment. Nearly one-third of Peru's population depends on agriculture for its livelihood. The development group Oxfam estimates that 1.7 million Peruvian farmers will be immediately affected by this trade agreement. When those farmers can't get a fair price for wheat or for barley or for corn, they are forced to produce other crops—almost inevitably, including coca. That means more cocaine production, it means more illegal drugs in the United States. We have been there before. We have seen that before. We have seen the rural dislocation in Mexico, after NAFTA, and there is nothing to suggest the Peru trade agreement will be any different.

Scholars, including former World Bank Director Joseph Stiglitz, note that rural upheaval from trade deals means more violence, more U.S. money spent on drug eradication.

An archbishop in Peru said: