

conduct or have direct investments in business operations in Sudan described in section 3(d) of the Sudan Accountability and Divestment Act of 2007.

“(2) APPLICABILITY.—

“(A) ACTIONS FOR BREACHES OF FIDUCIARY DUTIES.—Paragraph (1) does not prevent a person from bringing an action based on a breach of a fiduciary duty owed to that person with respect to a divestment or non-investment decision, other than as described in paragraph (1).

“(B) DISCLOSURES.—Paragraph (1) shall not apply to a registered investment company, or any employee, officer, director, or investment adviser thereof, unless the investment company makes disclosures in accordance with regulations prescribed by the Commission.

“(3) PERSON DEFINED.—For purposes of this subsection the term ‘person’ includes the Federal Government and any State or political subdivision of a State.”.

(b) SEC REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Securities and Exchange Commission shall prescribe regulations, in the public interest and for the protection of investors, to require disclosure by each registered investment company that divests itself of securities in accordance with section 13(c) of the Investment Company Act of 1940. Such rules shall require the disclosure to be included in the next periodic report filed with the Commission under section 30 of such Act (15 U.S.C. 80a-29) following such divestiture.

SEC. 5. SENSE OF CONGRESS REGARDING CERTAIN ERISA PLAN INVESTMENTS.

It is the sense of Congress that a fiduciary of an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), may divest plan assets from, or avoid investing plan assets in, any person the fiduciary determines is conducting or has direct investments in business operations in Sudan described in section 3(d) of this Act, without breaching the responsibilities, obligations, or duties imposed upon the fiduciary by section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104), if—

(1) the fiduciary makes such determination using credible information that is available to the public; and

(2) such divestment or avoidance of investment is conducted in accordance with section 2509.94-1 of title 29, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

SEC. 6. PROHIBITION ON UNITED STATES GOVERNMENT CONTRACTS.

(a) CERTIFICATION REQUIREMENT.—The head of each executive agency shall ensure that each contract entered into by such executive agency for the procurement of goods or services includes a clause that requires the contractor to certify to the contracting officer that the contractor does not conduct business operations in Sudan described in section 3(d).

(b) REMEDIES.—

(1) IN GENERAL.—The head of an executive agency may impose remedies as provided in this subsection if the head of the executive agency determines that the contractor has submitted a false certification under subsection (a) after the date the Federal Acquisition Regulation is amended under subsection (e) to implement the requirements of this section.

(2) TERMINATION.—The head of an executive agency may terminate a covered contract upon the determination of a false certification under paragraph (1).

(3) SUSPENSION AND DEBARMENT.—The head of an executive agency may debar or suspend a contractor from eligibility for Federal con-

tracts upon the determination of a false certification under paragraph (1). The debarment period may not exceed 3 years.

(4) INCLUSION ON LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT AND NON-PROCUREMENT PROGRAMS.—The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation issued under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) each contractor that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an executive agency on the basis of a determination of a false certification under paragraph (1).

(5) RULE OF CONSTRUCTION.—This section shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a determination of a false certification under paragraph (1).

(c) WAIVER.—

(1) IN GENERAL.—The President may waive the requirement of subsection (a) on a case-by-case basis if the President determines and certifies in writing to the appropriate congressional committees that it is in the national interest to do so.

(2) REPORTING REQUIREMENT.—Not later than April 15, 2008, and semi-annually thereafter, the Administrator for Federal Procurement Policy shall submit to the appropriate congressional committees a report on waivers granted under paragraph (1).

(d) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—Not later than 120 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) to provide for the implementation of the requirements of this section.

(e) REPORT.—Not later than one year after the date the Federal Acquisition Regulation is amended under subsection (e) to implement the requirements of this section, the Administrator of General Services, with the assistance of other executive agencies, shall submit to the Office of Management and Budget and the appropriate congressional committees a report on the actions taken under this section.

SEC. 7. SENSE OF CONGRESS ON EFFORTS BY OTHER COUNTRIES.

It is the sense of Congress that the governments of all other countries should adopt measures, similar to those contained in this Act, to publicize the activities of all persons that, through their financial dealings, knowingly or unknowingly enable the Government of Sudan to continue to oppress and commit genocide against people in the Darfur region and other regions of Sudan, and to authorize divestment from, and the avoidance of further investment in, such persons.

SEC. 8. SENSE OF CONGRESS ON PEACEKEEPING EFFORTS IN SUDAN.

It is the sense of Congress that the President should—

(1) continue to work with other members of the international community, including the Permanent Members of the United Nations Security Council, the African Union, the European Union, the Arab League, and the Government of Sudan to facilitate the urgent deployment of a peacekeeping force to Sudan; and

(2) bring before the United Nations Security Council, and call for a vote on, a resolution requiring meaningful multilateral sanc-

tions against the Government of Sudan in response to its acts of genocide against the people of Darfur and its continued refusal to allow the implementation of a peacekeeping force in Sudan.

SEC. 9. SENSE OF CONGRESS ON THE INTERNATIONAL OBLIGATIONS OF THE UNITED STATES.

It is the sense of Congress that nothing in this Act—

(1) conflicts with the international obligations or commitments of the United States; or

(2) affects article VI, clause 2, of the Constitution of the United States.

SEC. 10. REPORTS ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) IN GENERAL.—The Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report assessing the effectiveness of sanctions imposed with respect to Sudan at the time the Secretary of State and the Secretary of the Treasury submits reports required under—

(1) the Sudan Peace Act (Public Law 107-245; 50 U.S.C. 1701 note);

(2) the Comprehensive Peace in Sudan Act of 2004 (Public Law 108-497; 50 U.S.C. 1701 note); and

(3) the Darfur Peace and Accountability Act of 2006 (Public Law 109-344; 50 U.S.C. 1701 note).

(b) ADDITIONAL REPORT BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall submit to the appropriate congressional committees a report assessing the effectiveness of sanctions imposed with respect to Sudan under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) at the time the President submits the reports required by section 204(c) of such Act (50 U.S.C. 1703(c)) with respect to Executive Order 13,067 (50 U.S.C. 1701 note; relating to blocking property of persons in connection with the conflict in Sudan’s region of Darfur).

(c) CONTENTS.—The reports required by subsections (a) and (b) shall include—

(1) a description of each sanction imposed under a law or executive order described in subsection (a) or (b);

(2) the name of the person subject to the sanction, if any; and

(3) whether or not the person subject to the sanction is also subject to sanctions imposed by the United Nations.

SEC. 11. REPEAL OF REPORTING REQUIREMENT.

Section 6305 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28; 121 Stat. 172) is repealed.

SEC. 12. TERMINATION.

The provisions of sections 3, 4, 5, 6, and 10 shall terminate 30 days after the date on which the President has certified to Congress that the Government of Sudan has honored its commitments to—

(1) abide by United Nations Security Council Resolution 1769 (2007);

(2) cease attacks on civilians;

(3) demobilize and demilitarize the Janjaweed and associated militias;

(4) grant free and unfettered access for delivery of humanitarian assistance; and

(5) allow for the safe and voluntary return of refugees and internally displaced persons.

HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2007

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 516, H.R. 3997.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3997) to amend the Internal Revenue Code of 1986 to provide earnings assistance and tax relief to members of the uniformed services, volunteer firefighters, and Peace Corps volunteers, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendments at the desk be considered and agreed to; the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The amendment (No. 3847) was agreed to.

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

The amendment (No. 3848) was agreed to, as follows:

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1986 to provide tax relief and protections for military personnel, and for other purposes."

The bill (H.R. 3997), as amended, was ordered to a third reading, was read the third time, and passed.

UNANIMOUS CONSENT AGREEMENT—H.R. 3997

Mr. HARKIN. Mr. President, I ask unanimous consent that if the Senate receives from the House a message on H.R. 3997 with an amendment that is not germane to the Senate amendment with the underlying bill, that the bill and its amendments be referred to the Finance Committee.

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

MEASURE READ THE FIRST TIME—S. 2461

Mr. HARKIN. Mr. President, I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2461) to authorize the transfer of certain earmarked funds to accounts for operations and activities in Iraq and Afghanistan.

Mr. HARKIN. Mr. President, I now ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

ORDERS FOR THURSDAY, DECEMBER 13, 2007

Mr. HARKIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 8:30 a.m., Thursday, December 13; that on Thursday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders reserved for their use later in the day, and the Senate then resume consideration of H.R. 2419, with the time until 9:15 a.m. equally divided and controlled between the leaders or their designees for debate only; that at 9:15 a.m., the Senate vote in relation to the Dorgan amendment No. 3695, as modified, as provided for under a previous order; that upon disposition of the Dorgan amendment, there be 2 minutes of debate prior to a cloture vote on the motion to concur with respect to H.R. 6.

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

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. HARKIN. Mr. President, if there is no further business today, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 9:39 p.m., adjourned until Thursday, December 13, 2007, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

MARICA STEPHENS BLOOM BERNICAT, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA-BISSAU.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ROBERT F. COHEN, JR., OF WEST VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2012, VICE STANLEY C. SUBOLESKI, TERM EXPIRED.

DEPARTMENT OF HOMELAND SECURITY

HARVEY E. JOHNSON, JR., OF VIRGINIA, TO BE DEPUTY ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION)

WITHDRAWAL

Executive Message transmitted by the President to the Senate on December 12, 2007 withdrawing from further Senate consideration the following nomination:

HARVEY E. JOHNSON, JR., OF VIRGINIA, TO BE DEPUTY ADMINISTRATOR AND CHIEF OPERATING OFFICER, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION), WHICH WAS SENT TO THE SENATE ON SEPTEMBER 7, 2007.