

through experienced activities and events to examine their opportunities and strive to reach their fullest potential: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the goals of introducing our daughters and sons to the workplace; and

(2) commends all the participants in Take Our Daughters and Sons To Work for their ongoing contributions to education, and for the vital role the participants play in promoting and ensuring a brighter, stronger future for the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 287. Mr. BROWN of Massachusetts (for himself, Ms. AYOTTE, Mrs. HAGAN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 341, to require the rescission or termination of Federal contracts and subcontracts with enemies of the United States; which was ordered to lie on the table.

SA 288. Mr. BROWN of Massachusetts (for himself, Ms. AYOTTE, Mrs. HAGAN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 341, supra; which was ordered to lie on the table.

SA 289. Mr. CARPER (for himself, Mr. VITTER, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 287. Mr. BROWN of Massachusetts (for himself, Ms. AYOTTE, Mrs. HAGAN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 341, to require the rescission or termination of Federal contracts and subcontracts with enemies of the United States; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "No Contracting with the Enemy Act of 2011".

SEC. 2. DEFINITIONS.

In this Act:

(1) **ELEMENT OF THE INTELLIGENCE COMMUNITY.**—The term "element of the intelligence community" means an element of the intelligence community specified or designated in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) **ENEMY OF THE UNITED STATES.**—The term "enemy of the United States" means any person or organization determined by the Secretary of Defense or the Secretary of State to be hostile to United States forces or interests or providing support to any person or organization hostile to United States forces or interests during the time of a declared war, peacekeeping operation, or other military or contingency operation.

(3) **EXECUTIVE AGENCY.**—The term "executive agency" has the meaning given the term in section 133 of title 41, United States Code.

(4) **FEDERAL ACQUISITION REGULATION.**—The term "Federal Acquisition Regulation" means the regulation maintained under section 1303(a)(1) of title 41, United States Code.

(5) **FEDERAL CONTRACT.**—The term "Federal contract" means any contract, including any order under a multiple award or indefinite delivery or indefinite quality contract, entered into by an executive agency for the

procurement of property or services (including construction).

(6) **COOPERATIVE AGREEMENT.**—The term "cooperative agreement" has the meaning given the term pursuant to section 6305 of title 31, United States Code.

(7) **GRANT.**—The term "grant" has the meaning given the term pursuant to section 6304 of title 31, United States Code.

SEC. 3. PROHIBITION ON CONTRACTS, COOPERATIVE AGREEMENTS, OR GRANTS WITH ENEMIES.

(a) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation and the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall prescribe regulations or other guidance, as appropriate—

(1) to provide the authority to restrict the award of Federal contracts, cooperative agreements, or grants to enemies of the United States;

(2) to void any Federal contract, cooperative agreement, or grant with an enemy of the United States immediately at no cost to the United States Government, including any settlement costs or equitable adjustments to the prime or subcontractor, or any other compensation under other contract provision or provision of law;

(3) to provide that the head of an executive agency may provide for an adjudication process to balance restricting the award of, or voiding of, a contract, cooperative agreement, or grant, against operational mission needs of the agency;

(4) to require the contracting official or cooperative agreements or grants official, as the case may be to ensure no further payments, including previously approved payments and compensation, are made to the contractor or grantee; and

(5) to provide that the head of an executive agency shall have access to prime contractor and subcontractor records to facilitate Federal oversight of the obligation or expenditure of funds under contracts, cooperative agreements, and grants.

(b) **PROHIBITION ON SUBCONTRACTS.**—The regulations prescribed under subsection (a) shall prohibit the awarding of subcontracts under a Federal contract, cooperative agreement, or grant to enemies of the United States, and shall include the following requirements:

(1) Federal contracts, cooperative agreements, and grants shall include a contract clause prohibiting the use of a subcontractor at any tier under the contract, cooperative agreement, or grant that is an enemy of the United States.

(2) If the head of an executive agency determines that a prime contractor has subcontracted at any tier under a Federal contract, cooperative agreement, or grant with a contractor that is an enemy of the United States, the contracting official or cooperative agreements or grants official, as the case may be, shall—

(A) direct the prime contractor to terminate the subcontract immediately with no further payment or compensation to the subcontractor;

(B) notify the prime contractor that failure to terminate the subcontract shall be grounds for default on the prime contract, cooperative agreement, or grant; and

(C) take all necessary actions to ensure that no further payments, including previously approved payments and compensation are made to the subcontractor.

(c) **INTELLIGENCE COMMUNITY AND NATIONAL SECURITY EXCEPTION.**—The prohibitions under subsections (a) and (b) shall not apply to contracts, cooperative agreements, or

grants entered into by elements of the intelligence community in support of intelligence activities or any other contract, cooperative agreement, or grant where national security may be compromised.

(d) **MONITORING OF RESCINDED OR VOIDED CONTRACTS, COOPERATIVE AGREEMENTS, OR GRANTS.**—Not later than 90 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall direct the Administrator of General Services to add a field to the Federal Award-ee Performance and Integrity Information System ("FAPIS") to record contracts, grants, and cooperative agreements voided based on a determination that the contract, or any subcontract under the contract, was with an enemy of the United States as defined under section 2(2).

(e) **DISSEMINATION.**—The Administrator for Federal Procurement Policy, in coordination with the Secretary of Defense and the Secretary of State, shall ensure that the regulations implementing this Act are disseminated to all personnel affected and that all contractors are made aware of this policy prior to contract, cooperative agreement, or grant awards.

SEC. 4. DETERMINATION OF ENEMY STATUS.

(a) **REGULATIONS.**—

(1) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State and the Administrator of the United States Agency for International Development, shall prescribe regulations establishing a process for the heads of executive agencies to make a determination that a party to a contract, cooperative agreement, or grant is an enemy of the United States as defined under section 2(2).

(2) **ELEMENTS.**—The regulations prescribed under paragraph (1) shall establish—

(A) a process for verifying the information on which a determination under such paragraph is sufficiently reliable;

(B) a process for protecting confidential sources;

(C) a process requiring the heads of executive agencies to document the basis for determinations under paragraph (1) and the information relied upon in making such determinations;

(D) a process for retaining such information for possible review under section 5; and

(E) a process that provides a balance between restricting the award of, or voiding of, a contract, cooperative agreement, or grant, against operational mission needs of the agency.

SEC. 5. DUE PROCESS PROCEDURE.

(a) **CONTRACTS.**—Any contractor whose contract is voided under the procedures prescribed pursuant to sections 3 and 4 may utilize the procedures established under chapter 71 of title 41, United States Code, except that the only basis for a claim under these procedures is that the contractor is not an enemy of the United States as defined under section 2(2).

(b) **GRANTS AND COOPERATIVE AGREEMENTS.**—The Department of State, the Department of Defense, and the Agency for International Development shall establish internal administrative procedures for reviewing, in the case of a cooperative agreement or grant voided under the procedures prescribed pursuant to sections 3 and 4, the determination that a party to such cooperative agreement or grant is an enemy of the United States as defined under section 2(2).

(c) **PROTECTION OF NATIONAL SECURITY.**—The regulations established under chapter 71 of title 41, United States Code, as amended pursuant to subsection (a), and the regulations prescribed under subsection (b) shall provide for the protection of national security as appropriate when a claim is submitted pursuant to this section.

SEC. 6. APPLICABILITY.

This Act and the amendments made pursuant to this Act shall apply with respect to contracts entered into on or after the date of the enactment of this Act.

SA 288. Mr. BROWN of Massachusetts (for himself, Ms. AYOTTE, Mrs. HAGAN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 341, to require the rescission or termination of Federal contracts and subcontracts with enemies of the United States; which was ordered to lie on the table; as follows:

Amend the title so as to read: "A bill to restrict and void Federal contracts and subcontracts, cooperative agreements, and grants with enemies of the United States."

SA 289. Mr. CARPER (for himself, Mr. VITTER, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____ . SALE OF EXCESS FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY**"§ 621. Definitions**

"In this subchapter:

"(1) COUNCIL.—The term 'Council' means the Federal Real Property Council established by section 622(a).

"(2) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

"(3) LANDHOLDING AGENCY.—The term 'landholding agency' means a landholding agency (as defined in section 501(i) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i))).

"(4) REAL PROPERTY.—

"(A) IN GENERAL.—The term 'real property' means—

"(i) a parcel of real property under the administrative jurisdiction of the Federal Government that is—

"(I) excess;

"(II) surplus;

"(III) underperforming; or

"(IV) otherwise not meeting the needs of the Federal Government, as determined by the Director; and

"(ii) a building or other structure located on real property described in clause (i).

"(B) EXCLUSION.—The term 'real property' does not include—

"(i) any parcel of real property, and any building or other structure located on real property, that is to be closed or realigned under the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note; Public Law 100-526);

"(ii) any property that is excluded for reasons of national security by the Director;

"(iii) any public lands (as defined in section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722)) administered by—

"(I) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, the Director of the National Park Service, or the Commissioner of Reclamation; or

"(II) the Secretary of Agriculture, acting through the Chief of the Forest Service; or

"(iv) any Indian lands (as defined in section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722)).

"§ 622. Establishment of a Federal Real Property Council

"(a) ESTABLISHMENT.—There is established within the Office of Management and Budget a council to be known as the 'Federal Real Property Council'.

"(b) PURPOSE.—The purpose of the Council shall be to develop guidance for the asset management program of each executive agency.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The Council shall be composed exclusively of—

"(A) the senior real property officers of each executive agency;

"(B) the Deputy Director for Management of the Office of Management and Budget;

"(C) the Controller of the Office of Management and Budget;

"(D) the Administrator of General Services; and

"(E) any other full-time or permanent part-time Federal officials or employees, as the Chairperson determines to be necessary.

"(2) CHAIRPERSON.—The Deputy Director for Management of the Office of Management and Budget shall serve as Chairperson of the Council.

"(3) ADMINISTRATIVE SUPPORT.—The Office of Management and Budget shall provide funding and administrative support for the Council, as appropriate.

"(d) DUTIES.—The Council shall—

"(1) in consultation with the heads of executive agencies, establish performance measures to determine the effectiveness of Federal real property management that are designed—

"(A) to enable Congress and heads of executive agencies to track progress in the achievement of property management objectives on a governmentwide basis; and

"(B) allow for comparison of the performance of executive agencies against industry and other public sector agencies in terms of performance;

"(2) in developing and implementing the performance measures described in paragraph (1), use existing data sources and automated data collection tools;

"(3) not later than 180 days after the date of enactment of this subchapter, submit to the Committees on Environment and Public Works and Homeland Security and Governmental Affairs of the Senate and the Committees on Transportation and Infrastructure and Oversight and Government Reform of the House of Representatives a report that contains—

"(A) an evaluation of the leasing process in effect as of the date of submission of the report to identify and document inefficiencies in that process;

"(B) a suggested strategy to reduce the reliance of executive agencies on leased space for long-term needs if ownership would be less costly; and

"(C) an assessment of domestically held, federally leased space, including—

"(i) a description of the overall quantity and type of space leased by executive agencies; and

"(ii) an identification of current contracts for leased office space in which the leased space is not fully used or occupied (including a plan for subletting of unoccupied space); and

"(4)(A) review contracts for leased office space that are in effect as of the date of submission of the report; and

"(B) work with executive agencies to renegotiate leases having at least 2 years remaining in the term of the leases to recognize potential cost savings as quickly as practicable.

"§ 623. Duties of landholding agencies

"(a) IN GENERAL.—Each landholding agency shall—

"(1) maintain adequate inventory controls and accountability systems for property under the control of the agency;

"(2) continuously survey property under the control of the agency to identify excess property;

"(3) promptly report excess property to the Administrator;

"(4) establish goals that lead the agency to reduce excess real property in the inventory of the agency;

"(5) reassign property to another activity within the agency if the property is no longer required for purposes of the appropriation used to make the purchase;

"(6) transfer excess property under the control of the agency to other Federal agencies and to organizations specified in section 321(c)(2); and

"(7) obtain excess properties from other Federal agencies to meet mission needs before acquiring non-Federal property.

"(b) REPORT.—Not later than 90 days after the date of enactment of this subchapter, and annually thereafter, each landholding agency, in consultation with the Council, shall submit to Congress a report that describes, for the year covered by the report—

"(1) all surplus real property under the jurisdiction of the landholding agency;

"(2) an asset disposal plan, or an update of such a plan, that includes annual goals for the disposal of surplus real property; and

"(3) the number of real property disposals completed, including the disposal method used for each individual real property.

"§ 624. Database

"The Administrator shall—

"(1) establish and maintain a single, comprehensive, and descriptive database of all real property under the custody and control of all executive branch agencies, except when otherwise required for reasons of national security; and

"(2) shall collect from each executive agency such descriptive information (except for classified information) as the Administrator determines will best describe the nature, use, and extent of real property holdings for the Federal Government.

"§ 625. Disposal program

"(a) IN GENERAL.—

"(1) REQUIRED DISPOSAL.—

"(A) IN GENERAL.—The Director shall, by sale, demolition, or any other means of disposal, dispose of any real properties identified as of the date of enactment of this subchapter that, as determined by the Director, are surplus, are not being used, and will not be used to meet the needs of the Federal Government for the period of fiscal years 2012 through 2016.

"(B) CONVEYANCE.—Before taking any action to dispose of real property under subparagraph (A), the Director may consider whether the real property can be conveyed to State and local governments, nonprofit organizations, or the homeless for various public purposes or uses as allowed by applicable law.

"(2) WEBSITE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Director shall ensure that all real properties selected for disposal under this section are listed on a website that shall—

"(i) be updated routinely; and

"(ii) include the functionality to allow any member of the public, at the option of the member, to receive updates of the list through electronic mail.

"(B) NATIONAL SECURITY EXEMPTION.—The Director may, for purposes of national security, exclude from listing on the website under subparagraph (A) any real property selected for disposal under this section.

"(b) USE OF PROCEEDS.—

“(1) IN GENERAL.—Proceeds received from the disposal of any real property shall be retained and distributed in accordance with paragraphs (2) and (3).

“(2) AGENCIES THAT MAY RETAIN PROCEEDS.—With respect to a landholding agency that, as of the date of enactment of this subchapter, has statutory authority to retain full monetary proceeds from the disposal of real property—

“(A) nothing in this subsection affects the authority of such a landholding agency to retain those full monetary proceeds; but

“(B) the proceeds so retained—

“(i) shall be used—

“(I) by not later than 1 year after the date of disposal of the real property; and

“(II) only for activities relating to Federal real property asset management and disposal; and

“(ii) if not used by the date described in clause (i)(I), shall be returned to the general fund of the Treasury for debt reduction purposes.

“(3) AGENCIES THAT DO NOT RETAIN PROCEEDS.—With respect to a landholding agency that, as of the date of enactment of this subchapter, does not have statutory authority to retain full monetary proceeds from the disposal of real property—

“(A) the landholding agency—

“(i) may retain not more than 25 percent of the proceeds from the disposal of real property under this subchapter;

“(ii) shall use those proceeds—

“(I) by not later than 1 year after the date of disposal of the real property; and

“(II) only for activities relating to Federal real property asset management and disposal; and

“(iii) shall return amounts remaining unexpended after the date described in clause (ii)(I) to the general fund of the Treasury for debt reduction purposes; and

“(B) the remainder of those proceeds shall be deposited in the Treasury for debt reduction purposes.

“(c) ENFORCEMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if the surplus real properties described in subsection (a) are not disposed of as required under this section by September 30, 2015, no landholding agency may acquire any real property not under the administrative jurisdiction of the Federal Government, by sale or lease, until the Director submits a certification to Congress of the disposal of all of those surplus real properties.

“(2) WAIVER.—Paragraph (1) shall not apply to a landholding agency until such date as—

“(A) the landholding agency submits to the Director and the Committees on Environment and Public Works and Homeland Security and Governmental Affairs of the Senate and the Committees on Transportation and Infrastructure and Oversight and Government Reform of the House of Representatives a written justification describing the reasons why the surplus real properties described in subsection (a) under the jurisdiction of the landholding agency were not disposed of; and

“(B) Congress enacts a law approving the waiver.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the item relating to section 611 the following:

“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

“Sec.

“621. Definitions.

“622. Establishment of a Federal Real Property Council.

“623. Duties of executive agencies.

“624. Database.

“625. Disposal program.”

(c) REPORT OF THE COMPTROLLER GENERAL.—Not later than 5 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the use by executive agencies of the authorities provided by this Act and amendments made by this Act.

NOTICES OF INTENT TO SUSPEND THE RULES

Mr. DEMINT. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XIV, paragraphs 3 and 4 for the purpose of moving to proceed to H.R. 1363, Department of Defense and Further Additional Continuing Appropriations Act, 2011.

Mr. PAUL. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XIV, paragraphs 3 and 4 for the purpose of moving to proceed to S. 768, a bill to provide for continuing operations of Government in a fiscally responsible manner.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing scheduled before the Senate Committee on Energy and Natural Resources has been postponed. This hearing was scheduled to be held on Thursday, April 14, 2011, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing was to review S. 343 a bill to amend Title I of PL 99-658 regarding the Compact of Free Association between the Government of the United States of America and the Government of Palau, to approve the results of the 15-year review of the Compact, including the Agreement Between the Government of the United States of America and the Government of the Republic of Palau following the Compact of Free Association Section 432 Review, to appropriate funds for the purposes of the amended PL 99-658 for fiscal years ending on or before September 30, 2024, and to carry out the agreements resulting from that review.

For further information, please contact Al Stayman at (202) 224-7865 or Abigail Campbell at (202) 224-1219.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. TESTER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 7, 2011, at 9:30 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. TESTER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on April 7, 2011, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. TESTER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 7, 2011, at 10 a.m., in 215 Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. TESTER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on April 7, 2011, at 2:15 p.m., to hold a East Asian and Pacific Affairs subcommittee hearing entitled, “Combating Human Trafficking in Asia.”

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. TESTER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on April 7, 2011, at 1:30 p.m. to conduct a hearing entitled “Securing the Border: Progress at the Local Level.”

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

COMMITTEE ON INDIAN AFFAIRS

Mr. TESTER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on April 7, 2011, at 2:15 p.m. in Room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. TESTER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on April 7, 2011, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. TESTER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 7, 2011, at 2:30 p.m.

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