

Whereas the CDC estimates that as many as 1 in 2 Hispanic, African-American, Asian-American, and Native American adults will have diabetes in 2050 if present trends continue;

Whereas, according to the American Diabetes Association, in 2007, the total cost of diagnosed diabetes in the United States was \$174,000,000,000, and 1 in 10 dollars spent on health care was attributed to diabetes and its complications;

Whereas, according to a Lewin Group study, in 2007, the total cost of diabetes (including both diagnosed and undiagnosed diabetes, pre-diabetes, and gestational diabetes) was \$218,000,000,000;

Whereas a Mathematica Policy Research study in 2007 found that, for each fiscal year, total expenditures for Medicare beneficiaries with diabetes comprise 32.7 percent of the Medicare budget;

Whereas, according to the CDC, diabetes was the seventh leading cause of death in 2007 and contributed to the deaths of more than 230,000 people in the United States in 2007;

Whereas there is not yet a cure for diabetes;

Whereas there are proven means to reduce the incidence, and delay the onset, of type 2 diabetes;

Whereas, with the proper management and treatment, people with diabetes live healthy, productive lives; and

Whereas American Diabetes Month is celebrated in November: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of American Diabetes Month, including—

(A) encouraging the people of the United States to fight diabetes through public awareness about prevention and treatment options; and

(B) increasing education about the disease; (2) recognizes the importance of early detection of diabetes, awareness of the symptoms of diabetes, and the risk factors that often lead to the development of diabetes, including—

(A) being over the age of 45;

(B) having a specific racial and ethnic background;

(C) being overweight;

(D) having a low level of physical activity;

(E) having high blood pressure; and

(F) having a family history of diabetes or a history of diabetes during pregnancy; and

(3) supports decreasing the prevalence of type 1, type 2, and gestational diabetes in the United States through increased research, treatment, and prevention.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2928. Mrs. McCASKILL (for herself, Ms. COLLINS, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2929. Mrs. McCASKILL (for herself, Ms. COLLINS, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2930. Mrs. McCASKILL submitted an amendment intended to be proposed by her to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2931. Mr. BARRASSO submitted an amendment intended to be proposed to

amendment SA 2875 proposed by Mr. REID (for Mr. TESTER) to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table.

SA 2932. Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 2875 proposed by Mr. REID (for Mr. TESTER) to the bill S. 3525, supra; which was ordered to lie on the table.

SA 2933. Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 2875 proposed by Mr. REID (for Mr. TESTER) to the bill S. 3525, supra; which was ordered to lie on the table.

SA 2934. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2935. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2936. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2937. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2938. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2939. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2940. Mr. BLUMENTHAL (for himself, Mr. KERRY, Mrs. MURRAY, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2941. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2942. Mrs. McCASKILL submitted an amendment intended to be proposed by her to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2943. Mr. WEBB (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2944. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

SA 2945. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 3254, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2928. Mrs. McCASKILL (for herself, Ms. COLLINS, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1084. RESPONSIBILITIES REGARDING FINANCING OF OVERSEAS CONTINGENCY OPERATIONS.

(a) RESPONSIBILITIES OF THE PRESIDENT.—The President shall ensure that any request to Congress for funds for or relating to an overseas contingency operation includes the following:

(1) A specific statement of the requested funds, including—

(A) amounts requested for each appropriations account covered by the request; and

(B) amounts intended to be allocated, where available, to programs, projects, and activities to be funded through the request.

(2) A specific proposal for means of financing the amount requested, including an increase in specified revenues, a decrease in specified programs, projects, or activities, borrowing by the Federal Government, or other appropriate means.

(b) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall be the principal official of the Federal Government with responsibility for advising the President on financial matters in connection with overseas contingency operations, including the costs and proposed means of financing of all programs, projects, and activities of the Federal Government in connection with such operations.

(2) PARTICULAR RESPONSIBILITIES.—The responsibility of the Director under this subsection shall include the responsibilities as follows:

(A) To advise and report to the President on estimates of costs in connection with overseas contingency operations, including direct and indirect costs, current and future costs, and anticipated contracting costs.

(B) To identify and report to the President on means of financing the costs of the Federal Government in connection with overseas contingency operations, including an increase in specified revenues, a decrease in specified programs, projects, or activities, borrowing by the Federal Government, or other appropriate means.

(3) CONSULTATION.—The Director shall carry out the responsibility of the Director under this subsection in consultation with the Secretary of the Treasury, the Secretary of Defense, the Secretary of State, and other appropriate officials of the Federal Government.

(c) ANNUAL REPORTS TO CONGRESS.—Not later than 45 days after the end of each fiscal year in which Federal funds are obligated for or in connection with an overseas contingency operation, the Director of the Office of Management and Budget shall submit to Congress a report on the obligation and expenditure of Federal funds for or in relation to the operation during such fiscal year and in the aggregate since the commencement or designation of the operation as a contingency operation.

(d) OVERSEAS CONTINGENCY OPERATION DEFINED.—In this section, the term “overseas contingency operation” means a military operation outside the United States and its territories and possessions that is a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code).

SA 2929. Mrs. McCASKILL (for herself, Ms. COLLINS, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3254, to

authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 822 and insert the following:

SEC. 822. PROHIBITION OF EXCESSIVE PASS-THROUGH CONTRACTS AND CHARGES IN THE ACQUISITION OF SERVICES.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to—

(1) prohibit the award of a covered contract or task order unless the contractor agrees that at least 50 percent of the direct labor cost of services to be performed under the contract or task order will be expended for employees of the contractor or of a subcontractor that is specifically identified and authorized to perform such work in the contract or task order;

(2) provide that the contracting officer for a covered contract or task order may authorize reliance upon a subcontractor or subcontractors to meet the requirement in paragraph (1) only upon a written determination that such reliance is in the best interest of the executive agency concerned, after taking into account the added cost for overhead (including general and administrative costs) and profit that may be incurred as a result of the pass-through;

(3) require the contracting officer for a covered contract or task order for which more than 70 percent of the direct labor cost of services to be performed will be expended for persons other than employees of the contractor to ensure that amounts paid to the contractor for overhead (including general and administrative costs) and profit are reasonable in relation to the cost of direct labor provided by employees of the contractor and any other costs directly attributable to the management of the subcontract by employees of the contractor;

(4) include such exceptions to the requirements in paragraphs (2) and (3) as the Federal Acquisition Regulatory Council considers appropriate in the interests of the United States, which exceptions shall be permissible only in exceptional circumstances and for instances demonstrated by the Council to be cost-effective; and

(5) include such exceptions to the requirements in paragraphs (2) and (3) as the Secretary of Defense considers appropriate in the interests of the national defense.

(b) COVERED CONTRACT OR TASK ORDER DEFINED.—In this section, the term “covered contract or task order” means a contract or task order for the performance of services (other than construction) with a value in excess of the simplified acquisition threshold that is entered into for or on behalf of an executive agency, except that such term does not include any contract or task order that provides a firm, fixed price for each task to be performed and is—

(1) awarded on the basis of adequate price competition; or

(2) for the acquisition of commercial services as defined in paragraphs (5) and (6) of section 103 of title 41, United States Code.

(c) EFFECTIVE DATE.—The requirements of this section shall apply to—

(1) covered contracts that are awarded on or after the date that is 90 days after the date of the enactment of this Act; and

(2) covered task orders that are awarded on or after the date that is 90 days after the

date of the enactment of this Act under contracts that are awarded before, on, or after such date.

(d) OTHER DEFINITIONS.—In this section:

(1) The term “executive agency” has the meaning given that term in section 133 of title 41, United States Code.

(2) The term “Federal Acquisition Regulatory Council” means the Federal Acquisition Regulatory Council under section 1302(a) of title 41, United States Code.

(e) CONFORMING REPEAL.—Section 852 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (120 Stat. 2340) is repealed.

On page 250, between lines 15 and 16, insert the following:

SEC. 860. SHORT TITLE.

This subtitle may be cited as the “Wartime Contracting Reform Act of 2012”.

On page 254, strike lines 6 through 15 and insert the following:

(c) COMPTROLLER GENERAL REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the progress of the Department of Defense in implementing the regulations prescribed under subsection (a). The report may include such additional comments and information on the regulations and the implementation of the regulations as the Comptroller General considers appropriate.

(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

On page 254, strike lines 19 through 25 and insert the following:

(a) REPORTS REQUIRED.—

(1) DEPARTMENT OF DEFENSE.—Not later than one year after the commencement or designation of a contingency operation outside the United States that includes combat operations, and annually thereafter until the termination of the operation, the Secretary of Defense shall, except as provided in subsection (b), submit to the appropriate committees of Congress a report on contract support for the Department of Defense for the operation.

(2) DEPARTMENT OF STATE AND USAID.—Not later than one year after the commencement or designation of a contingency operation outside the United States that includes combat operations, and annually thereafter until the termination of the operation, the Secretary of State and the Administrator of the United States Agency for International Development shall, except as provided in subsection (b), each submit to the appropriate committees of Congress a report on contract support for the operation for the Department of State or the United States Agency for International Development, as the case may be.

On page 255, line 9, insert “of an agency” after “Each report”.

On page 255, line 14, strike “the Department of Defense” and insert “the agency”.

On page 257, beginning on line 7, strike “the Secretary” and all that follows through “the Secretary” on line 9 and insert “the Secretary or the Administrator may use estimates for any category of contractor personnel for which such Secretary or the Administrator, as the case may be,”.

On page 257, after line 23, add the following:

(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

Strike section 864 and insert the following:

SEC. 864. RISK ASSESSMENT AND MITIGATION FOR CONTRACTOR PERFORMANCE OF CRITICAL FUNCTIONS IN SUPPORT OF OVERSEAS CONTINGENCY OPERATIONS.

(a) COMPREHENSIVE RISK ASSESSMENT AND MITIGATION PLAN REQUIRED.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than six months after the commencement or designation of an overseas contingency operation that includes or is expected to include combat operations, the head of each covered agency shall perform a comprehensive risk assessment and develop a risk mitigation plan for operational and political risks associated with contractor performance of critical functions in support of the operation for such covered agency.

(2) EXCEPTIONS.—Except as provided in paragraph (3), a risk assessment and risk mitigation plan shall not be required under paragraph (1) for an overseas contingency operation if both—

(A) the operation is not expected to continue for more than one year; and

(B) the total annual amount of obligations by the United States Government for contracts for support of or in connection with the operation is not expected to exceed, \$250,000,000 in any fiscal year.

(3) TERMINATION OF EXCEPTIONS.—Notwithstanding paragraph (2), the head of a covered agency shall perform a risk assessment and develop a risk mitigation plan under paragraph (1) for an overseas contingency operation with regard to which a risk assessment and risk mitigation plan has not previously been performed under paragraph (1) not later than 60 days after the first date on which either of the following occurs:

(A) The operation has continued for more than one year.

(B) The total amount of obligations by the United States Government for contracts for support of or in connection with the operation has exceeded \$250,000,000 in a fiscal year.

(b) COMPREHENSIVE RISK ASSESSMENTS.—A comprehensive risk assessment for an overseas contingency operation under subsection (a) shall consider, at a minimum, risks relating to the following:

(1) The goals and objectives of the operation (such as risks from behavior that injures innocent members of the local population or outrages their sensibilities).

(2) The continuity of the operation (such as risks from contractors walking off the job or being unable to perform when there is no timely back-up available).

(3) The safety of military and civilian personnel of the United States if the presence or performance of contractor personnel creates unsafe conditions or invites attack.

(4) The managerial control of the Government over the operation (such as risks from over-reliance on contractors to monitor other contractors with inadequate means for Government personnel to monitor their work).

(5) The critical organic or core capabilities of the Government, including critical knowledge or institutional memory of key operations areas and subject-matter expertise.

(6) The ability of the Government to control costs, avoid organizational or personal conflicts of interest, and minimize waste, fraud, and abuse.

(c) **RISK MITIGATION PLANS.**—A risk mitigation plan for an overseas contingency operation under subsection (a) shall include, at a minimum, the following:

(1) For each high risk area identified in the comprehensive risk assessment for the operation performed under subsection (a)—

(A) specific actions to mitigate or reduce such risk, including, but not limited to, the development of alternative capabilities to reduce reliance on contractor performance of critical functions;

(B) measurable milestones for the implementation of planned risk mitigation or risk reduction measures; and

(C) a process for monitoring, measuring, and documenting progress in mitigating or reducing risk.

(2) A continuing process for identifying and addressing new and changed risks arising in the course of the operation, including the periodic reassessment of risks and the development of appropriate risk mitigation or reduction plans for any new or changed high risk area identified.

(d) **REPORTS TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than 30 days after the completion of a comprehensive risk assessment and risk mitigation plan under subsection (a), the head of the covered agency concerned shall submit to the appropriate committees of Congress a report setting forth a summary description of the assessment and plan, including a description of the risks identified through the assessment and the actions to be taken to address such risks.

(2) **FORM.**—Each report shall be submitted in unclassified form, but may include a classified annex.

(e) **CRITICAL FUNCTIONS.**—For purposes of this section, critical functions include, at a minimum, the following:

(1) Private security functions, as that term is defined in section 864(a)(5) of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 2302 note).

(2) Training and advising government personnel, including military and security personnel, of a host nation.

(3) Conducting intelligence or information operations.

(4) Any other functions that are closely associated with inherently governmental functions, including the functions set forth in section 7.503(d) of the Federal Acquisition Regulation.

(f) **DEFINITIONS.**—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term “covered agency” means the following:

(A) The Department of Defense.

(B) The Department of State.

(C) The United States Agency for International Development.

(3) The term “overseas contingency operation” means a military operation outside the United States and its territories and possessions that is a contingency operation (as

that term is defined in section 101(a)(13) of title 10, United States Code).

On page 271, after line 20, add the following:

SEC. 869. RESPONSIBILITIES OF INSPECTORS GENERAL FOR OVERSEAS CONTINGENCY OPERATIONS.

(a) **IN GENERAL.**—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8L as section 8M; and

(2) by inserting after section 8K the following new section 8L:

“SEC. 8L. SPECIAL PROVISIONS CONCERNING OVERSEAS CONTINGENCY OPERATIONS.

“(a) **IN GENERAL.**—Upon the commencement or designation of a military operation as an overseas contingency operation that exceeds 90 days, the Inspectors General specified in subsection (b) shall have the responsibilities specified in this section.

“(b) **INSPECTORS GENERAL.**—The Inspectors General specified in this subsection are the Inspectors General as follows:

“(1) The Inspector General of the Department of Defense.

“(2) The Inspector General of the Department of State.

“(3) The Inspector General of the United States Agency for International Development.

“(c) **STANDING COMMITTEE ON OVERSEAS CONTINGENCY OPERATIONS.**—(1) The Council of Inspectors General on Integrity and Efficiency (CIGIE) shall establish a standing committee on overseas contingency operations. The standing committee shall consist of the following:

“(A) A chair, who shall be the Lead Inspector General for an overseas contingency operation under subsection (d) if such an operation is underway, and shall be an Inspector General specified in subsection (b) selected by the Inspectors General specified in that subsection from among themselves if such an operation is not underway.

“(B) The other Inspectors General specified in subsection (b).

“(C) For the duration of any contingency operation that exceeds 90 days, any other inspectors general determined by the chair, in coordination with the other Inspectors General specified in subsection (b), to have actual or potential areas of responsibility with respect to the contingency operation.

“(2) The standing committee shall have such on-going responsibilities, including planning, coordination, and development of practices, to improve oversight of overseas contingency operations as the chair considers appropriate.

“(3)(A) For the duration of any contingency operation that exceeds 90 days, the standing committee shall develop and update on an annual basis a joint-strategic plan for ongoing and planned oversight of the contingency operation by the Inspectors General specified in subsection (b) and designated pursuant to paragraph (1)(C), including the following:

“(i) Audit and available inspection plans.

“(ii) An overall assessment of such oversight, including projects or areas (whether departmental or government-wide) of concern or in need of further review.

“(iii) Such other matters as the Lead Inspector General for the contingency operation considers appropriate.

“(B) Each plan under this paragraph, and any update of such plan, shall be made available on an Internet website available to the public. Each plan, and any update of such plan, made so available shall be made available in unclassified form.

“(d) **LEAD INSPECTOR GENERAL FOR OVERSEAS CONTINGENCY OPERATIONS.**—(1) There

shall be a lead inspector general for each overseas contingency operation that exceeds 90 days (in this section referred to as the ‘Lead Inspector General’ for the contingency operation concerned).

“(2) The Lead Inspector General for a contingency operation shall be the Inspector General of the Department of Defense, who shall assume such role not later than 90 days after the commencement or designation of the military operation concerned as a contingency operation.

“(e) **RESPONSIBILITIES OF LEAD INSPECTOR GENERAL.**—(1) The Lead Inspector General for an overseas contingency operation shall have the following responsibilities:

“(A) To conduct oversight, in full coordination with the other Inspectors General specified in subsection (b), over all aspects of the contingency operation and to ensure, either through joint or individual audits, inspections, and investigations, independent and effective oversight of all programs and operations of all departments and agencies in the contingency operation.

“(B) To appoint, from among the offices of the other Inspectors General specified in subsection (b), an Inspector General to act as Associate Inspector General for the overseas contingency operation who shall act in a coordinating role to assist the Lead Inspector General in the discharge of responsibilities under this subsection.

“(C)(i) If none of the Inspectors General specified in subsection (b) has principal jurisdiction over a matter with respect to the contingency operation, to exercise responsibility for discharging oversight responsibilities in accordance with this Act with respect to such matter.

“(ii) If more than one of the Inspectors General specified in subsection (b) has jurisdiction over a matter with respect to the contingency operation, to determine principal jurisdiction for discharging oversight responsibilities in accordance with this Act with respect to such matter.

“(D) To carry out such other responsibilities relating to the coordination and efficient and effective discharge by the Inspectors General specified in subsection (b) of duties relating to the contingency operation as the Lead Inspector General shall specify.

“(2) The Lead Inspector General for an overseas contingency operation shall discharge the responsibilities for the contingency operation under this subsection in a manner consistent with the authorities and requirements of this Act generally and the authorities and requirements applicable to the Inspectors General specified in subsection (b) under this Act.

“(f) **REPORTS.**—(1) The Lead Inspector General for an overseas contingency operation shall, in coordination with the other Inspectors General specified in subsection (b), submit to the appropriate committees of Congress on a semi-annual basis, and make available on an Internet website available to the public, a report summarizing, for the semi-annual period, the activities of the Lead Inspector General and the other Inspectors General specified in subsection (b) with respect to the contingency operation, including—

“(A) the status and results of audits, inspections, and closed investigations, and of the number of referrals to the Department of Justice;

“(B) updates and changes to overall plans for the review of the contingency operation by inspectors general, including plans for inspections and audits; and

“(C) the activities under programs and operations funded with amounts appropriated or otherwise made available for the overseas contingency operation, including the information specified in paragraph (2).

“(2) The information specified in this paragraph with respect to an overseas contingency operation is as follows:

“(A) Obligations and expenditures of appropriated funds.

“(B) A project-by-project and program-by-program accounting of the costs incurred to date for the contingency operation, together with the estimate of the Department of Defense, the Department of State, and the United States Agency for International Development, as applicable, of the costs to complete each project and program above the simplified acquisition threshold.

“(C) Revenues attributable to or consisting of funds provided by foreign nations or international organizations to programs and projects for the contingency operation that are funded by any department or agency of the United States Government, and any obligations or expenditures of such revenues.

“(D) Revenues attributable to or consisting of foreign assets seized or frozen that contribute to programs and projects for the contingency operation that are funded by any department or agency of the United States Government, and any obligations or expenditures of such revenues.

“(E) Operating expenses of agencies or entities receiving amounts appropriated or otherwise made available for the contingency operation.

“(F) In the case of any contract, grant, agreement, or other funding mechanism described in paragraph (3) with respect to the contingency operation—

“(i) the amount of the contract, grant, agreement, or other funding mechanism;

“(ii) a brief discussion of the scope of the contract, grant, agreement, or other funding mechanism;

“(iii) a discussion of how the department or agency of the United States Government involved in the contract, grant, agreement, or other funding mechanism identified, and solicited offers from, potential individuals or entities to perform the contract, grant, agreement, or other funding mechanism, together with a list of the potential individuals or entities that were issued solicitations for the offers; and

“(iv) the justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

“(3) A contract, grant, agreement, or other funding mechanism described in this paragraph is any major contract, grant, agreement, or other funding mechanism that is entered into by any department or agency of the United States Government that involves the use of amounts appropriated or otherwise made available for reconstruction and other related activities in the contingency operation concerned with any public or private sector entity, including any of the following purposes:

“(A) To build or rebuild physical infrastructure.

“(B) To establish or reestablish a political or societal function or institution.

“(C) To provide products or services.

“(4) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

“(g) TEMPORARY EMPLOYMENT AUTHORITY.—(1) Each Inspector General specified in subsection (b) may employ, on a temporary basis using the authorities in section 3161 of title 5, United States Code (but without regard to subsections (a) and (b)(2) of such section), such auditors, inspectors, investigators, and other personnel as such Inspector General considers appropriate for purposes of assisting such Inspector General in discharging responsibilities under subsection (e) with respect to an overseas contingency operation.

“(2) The employment under this subsection of an annuitant described in section 9902(g) of title 5, United States Code, shall be governed by the provisions of such section as if the position to which employed was a position in the Department of Defense.

“(3) The employment under this subsection of an annuitant receiving an annuity under the Foreign Service Retirement and Disability System under chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.) shall be treated as employment in an elective position in the Government on a temporary basis under section 824(b) of the Foreign Service Act of 1980 (22 U.S.C. 4064(b)) for which continued receipt of annuities may be elected as provided in such section.

“(4) The authority to employ personnel under this subsection for a contingency operation shall cease as provided for in subsection (h).

“(h) SUNSET FOR PARTICULAR CONTINGENCY OPERATIONS.—The requirements and authorities of this section with respect to an overseas contingency operation shall cease at the earlier of—

“(1) the end of the first fiscal year after the commencement or designation of the contingency operation in which the total amount appropriated for the contingency operation is less than \$250,000,000 (in constant fiscal year 2012 dollars); or

“(2) the date that is 18 months after the date of the issuance by the Secretary of Defense of an order terminating the contingency operation.

“(i) CONSTRUCTION OF AUTHORITY.—Nothing in this Act shall be construed to limit the ability of the Inspectors General specified in subsection (b) to enter into agreements to conduct joint audits, inspections, or investigations in the exercise of their oversight responsibilities in accordance with this Act with respect to overseas contingency operations.

“(j) DEFINITIONS.—In this section:

“(1) The term ‘overseas contingency operation’ means a military operation outside the United States and its territories and possessions that is a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code).

“(2) The term ‘simplified acquisition threshold’ has the meaning provided that term in section 2302(7) of title 10, United States Code.”

(b) CONFORMING AMENDMENT RELATING TO TEMPORARY EMPLOYMENT AUTHORITY.—Section 3161 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(j) LEAD INSPECTORS GENERAL FOR OVERSEAS CONTINGENCY OPERATIONS AS TEMPORARY ORGANIZATION.—In addition to the meaning given that term in subsection (a), the term ‘temporary organization’ for purposes of this subchapter shall, without regard to subsections (a) and (b)(2) of this section, also include the Lead Inspector General for an overseas contingency operation under section 8L of the Inspector General Act of 1978 and the Inspectors General and inspector general office personnel assisting the Lead Inspector General in the discharge of responsibilities and authorities under subsection (e) of such section 8L with respect to the contingency operation.”

SEC. 870. AGENCY REPORTS AND INSPECTOR GENERAL AUDITS OF CERTAIN INFORMATION ON OVERSEAS CONTINGENCY OPERATIONS.

(a) AGENCY REPORTS.—Not later than 180 days after the commencement or designation of a military operation as an overseas contingency operation and semi-annually thereafter during the duration of the contingency operation, the Secretary of Defense, the Secretary of State, and the Administrator of the

United States Agency for International Development shall each make available to the Inspector General of the department or agency concerned the information required by subsection (f)(2) of section 8L of the Inspector General Act of 1978 (as amended by section 869 of this Act) on the contingency operation.

(b) INSPECTOR GENERAL AUDITS.—Not later than 90 days after receipt of a report under subsection (a), each Inspector General referred to in that subsection shall—

(1) perform an audit on the quality of the information submitted in such report, including an assessment of the completeness and accuracy of the information and the extent to which the information fully satisfies the requirements of such Inspector General in preparing the semi-annual report described in subsection (f)(1)(C) of section 8L of the Inspector General Act of 1978 (as so amended); and

(2) submit to the appropriate committees of Congress a report on the reliability, accuracy, and completeness of the information, including any significant problems in such information.

(c) DEFINITIONS.—In this section:

(1) The term ‘appropriate committees of Congress’ means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term ‘overseas contingency operation’ means a military operation outside the United States and its territories and possessions that is a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code).

SEC. 871. OVERSIGHT OF CONTRACTS AND CONTRACTING ACTIVITIES FOR OVERSEAS CONTINGENCY OPERATIONS IN RESPONSIBILITIES OF CHIEF ACQUISITION OFFICERS OF FEDERAL AGENCIES.

(a) IN GENERAL.—Subsection (b)(3) of section 1702 of title 41, United States Code, is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph (F):

“(F) advising the executive agency on the applicability of relevant policy on the contracts of the agency for overseas contingency operations and ensuring the compliance of the contracts and contracting activities of the agency with such policy;”

(b) DEFINITION.—Such section is further amended by adding at the following new subsection:

“(d) OVERSEAS CONTINGENCY OPERATIONS DEFINED.—In this section, the term ‘overseas contingency operations’ means military operations outside the United States and its territories and possessions that are a contingency operation (as that term is defined in section 101(a)(13) of title 10).”

SEC. 872. REPORTS ON RESPONSIBILITY WITHIN DEPARTMENT OF STATE AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT FOR CONTRACT SUPPORT FOR OVERSEAS CONTINGENCY OPERATIONS.

(a) DoS AND USAID REPORTS REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of State and the Administrator of the United States Agency for International Development shall, in consultation with the Chief

Acquisition Officer of the Department of State and the Chief Acquisition Officer of the United States Agency for International Development, respectively, each submit to the appropriate committees of Congress an assessment of Department of State and United States Agency for International Development policies governing contract support in overseas contingency operations.

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

(1) A description and assessment of the roles and responsibilities of the officials, offices, and components of the Department of State or the United States Agency for International Development, as applicable, within the chain of authority and responsibility for policy, planning, and execution of contract support for overseas contingency operations.

(2) Procedures and processes of the Department or Agency, as applicable, on the following in connection with contract support for overseas contingency operations:

(A) Collection, inventory, and reporting of data.

(B) Acquisition planning.

(C) Solicitation and award of contracts.

(D) Requirements development and management.

(E) Contract tracking and oversight.

(F) Performance evaluations.

(G) Risk management.

(H) Interagency coordination and transition planning.

(3) Strategies and improvements necessary for the Department or the Agency, as applicable, to address reliance on contractors, workforce planning, and the recruitment and training of acquisition workforce personnel, including the anticipated number of personnel needed to perform acquisition management and oversight functions and plans for achieving personnel staffing goals, in connection with overseas contingency operations.

(c) **COMPTROLLER GENERAL REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the progress of the efforts of the Department of State and the United States Agency for International Development in implementing improvements and changes identified under paragraphs (1) through (3) of subsection (b) in the reports required by subsection (a), together with such additional information as the Comptroller General considers appropriate to further inform such committees on issues relating to the reports required by subsection (a).

(d) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

SEC. 873. PROFESSIONAL EDUCATION FOR DEPARTMENT OF STATE PERSONNEL ON ACQUISITION FOR DEPARTMENT OF STATE SUPPORT AND PARTICIPATION IN OVERSEAS CONTINGENCY OPERATIONS.

(a) **PROFESSIONAL EDUCATION REQUIRED.**—The Secretary of State shall develop and administer for Department of State personnel specified in subsection (b) a course of professional education on acquisition by the Department of State for Department of State support for, and participation in, overseas contingency operations.

(b) **COVERED DEPARTMENT OF STATE PERSONNEL.**—The Department of State personnel specified in this subsection are as follows:

(1) The Chief Acquisition Officer of the Department of State.

(2) Personnel of the Department designated by the Chief Acquisition Officer, including contracting officers and other contracting personnel.

(3) Such other personnel of the Department as the Secretary of State shall designate for purposes of this section.

(c) **ELEMENTS.**—

(1) **CURRICULUM CONTENT.**—The course of professional education under this section shall include appropriate content on the following:

(A) Contingency contracting.

(B) Contingency program management.

(C) The strategic impact of contracting costs on the mission and activities of the Department of State.

(D) Such other matters relating to acquisition by the Department for Department support for, or participation in, overseas contingency operations as the Secretary of State considers appropriate.

(2) **PHASED APPROACH.**—The course of professional education may be broken into two or more phases of professional education with curriculum or modules of education suitable for the Department of State personnel specified in subsection (b) at different phases of professional advancement within the Department.

(d) **DEFINITIONS.**—In this section:

(1) The term “contingency contracting” means all stages of the process of acquiring property or services by the Department of State for Department of State support for, and participation in, overseas contingency operations.

(2) The term “contingency program management” means the process of planning, organizing, staffing, controlling, and leading specific acquisition programs and activities of the Department of State for Department of State support for, and participation in, overseas contingency operations.

(3) The term “overseas contingency operation” means a military operation outside the United States and its territories and possessions that is a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code).

SEC. 874. DATABASE ON PRICE TRENDS OF ITEMS AND SERVICES UNDER FEDERAL CONTRACTS.

(a) **DATABASE REQUIRED.**—

(1) **IN GENERAL.**—Chapter 33 of title 41, United States Code, is amended by adding at the end the following new section:

“§ 3312. Database on price trends of items and services under Federal contracts

“(a) **DATABASE REQUIRED.**—The Administrator shall establish and maintain a database of information on price trends for items and services under contracts with the Federal Government. The information in the database shall be designed to assist Federal acquisition officials in the following:

“(1) Monitoring developments in price trends for items and services under contracts with the Federal Government.

“(2) Conducting pricing or cost analyses for items and services under offers for contracts with the Federal Government, or otherwise conducting determinations of the reasonableness of prices for items and services under such offers, and addressing unjustified escalation in prices being paid by the Federal Government for items and services under contracts with the Federal Government.

“(b) **USE.**—(1) The database under subsection (a) shall be available to executive agencies in the evaluation of offers for con-

tracts with the Federal Government for items and services.

“(2) The Secretary of Defense may satisfy the requirements of this section by complying with the requirements of section 892 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2306a note).”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 33 of such title is amended by adding at the end the following new item:

“3312. Database on price trends of items and services under Federal contracts.”.

(b) **USE OF ELEMENTS OF DEPARTMENT OF DEFENSE PILOT PROJECT.**—In establishing the database required by section 3312 of title 41, United States Code (as added by subsection (a)), the Administrator of Federal Procurement Policy shall use and incorporate appropriate elements of the pilot project on pricing of the Department of Defense being carried out by the Director of Defense Pricing.

SEC. 875. INFORMATION ON CORPORATE CONTRACTOR PERFORMANCE AND INTEGRITY THROUGH THE FEDERAL AWARD PERFORMANCE AND INTEGRITY INFORMATION SYSTEM.

(a) **INCLUSION OF CORPORATIONS AMONG COVERED PERSONS.**—Subsection (b) of section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4555) is amended by inserting “(including a corporation)” after “Any person” both places it appears.

(b) **INFORMATION ON CORPORATIONS.**—Subsection (d) of such section is amended by adding at the end the following new paragraph:

“(3) **INFORMATION ON CORPORATIONS.**—The information on a corporation in the database shall, to the extent practicable, include information on any parent, subsidiary, or successor entities to the corporation in manner designed to give the acquisition officials using the database a comprehensive understanding of the performance and integrity of the corporation in carrying out Federal contracts and grants.”.

SEC. 876. INCLUSION OF DATA ON CONTRACTOR PERFORMANCE IN PAST PERFORMANCE DATABASES FOR EXECUTIVE AGENCY SOURCE SELECTION DECISIONS.

(a) **STRATEGY REQUIRED.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall develop a strategy for ensuring that timely, accurate, and complete information on contractor performance is included in past performance databases used by executive agencies for making source selection decisions.

(2) **CONSULTATION WITH USDATL.**—In developing the strategy required by this subsection, the Federal Acquisition Regulatory Council shall consult with the Under Secretary of Defense for Acquisition, Technology, and Logistics to ensure that the strategy is, to the extent practicable, consistent with the strategy developed by the Under Secretary pursuant to section 806 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1487; 10 U.S.C. 2302 note).

(b) **ELEMENTS.**—The strategy required by subsection (a) shall, at a minimum—

(1) establish standards for the timeliness and completeness of past performance submissions for purposes of databases described in subsection (a);

(2) assign responsibility and management accountability for the completeness of past performance submissions for such purposes; and

(3) ensure that past performance submissions for such purposes are consistent with

award fee evaluations in cases where such evaluations have been conducted.

(c) **CONTRACTOR COMMENTS.**—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require the following:

(1) That affected contractors are provided, in a timely manner, information on contractor performance to be included in past performance databases in accordance with subsection (a).

(2) That such contractors are afforded up to 14 calendar days, from the date of delivery of the information provided in accordance with paragraph (1), to submit comments, rebuttals, or additional information pertaining to past performance for inclusion in such databases.

(3) That agency evaluations of contractor past performance, including any information submitted under paragraph (2), are included in the relevant past performance database not later than the date that is 14 days after the date of delivery of the information provided in accordance with paragraph (1).

(d) **CONSTRUCTION.**—Nothing in this section shall be construed to prohibit a contractor from submitting comments, rebuttals, or additional information pertaining to past performance after the period described in subsection (c)(2) has elapsed or to prohibit a contractor from challenging a past performance evaluation in accordance with applicable laws, regulations, or procedures.

(e) **COMPTROLLER GENERAL REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the actions taken by the Federal Acquisition Regulatory Council pursuant to this section, including an assessment of the following:

(1) The extent to which the strategy required by subsection (a) is consistent with the strategy developed by the Under Secretary of Defense for Acquisition, Technology, and Logistics as described in subsection (a)(2).

(2) The extent to which the actions of the Federal Acquisition Regulatory Council pursuant to this section have otherwise achieved the objectives of this section.

(f) **DEFINITIONS.**—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term “executive agency” has the meaning given that term in section 133 of title 41, United States Code, except that the term excludes the Department of Defense and the military departments.

(3) The term “Federal Acquisition Regulatory Council” means the Federal Acquisition Regulatory Council under section 1302(a) of title 41, United States Code.

Strike section 881 and insert the following:

SEC. 881. REQUIREMENTS AND LIMITATIONS FOR SUSPENSION AND DEBARMENT OFFICIALS OF THE DEPARTMENT OF DEFENSE, THE DEPARTMENT OF STATE, AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the head of the covered agency concerned shall ensure the following:

(1) There shall be not less than one suspension and debarment official—

(A) in the case of the Department of Defense, for each of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Defense Logistics Agency;

(B) for the Department of State; and

(C) for the United States Agency for International Development.

(2) A suspension and debarment official under paragraph (1) may not report to or be subject to the supervision of the acquisition office or the Inspector General of—

(A) in the case of the Department of Defense, either the Department of Defense or the military department or Defense Agency concerned; and

(B) in the case of any other covered agency, the acquisition office or the Inspector General of such agency.

(3)(A) Except as provided in subparagraph (B), the duties of a suspension and debarment official under paragraph (1) may include only the following:

(i) The direction, management, and oversight of suspension and debarment activities.

(ii) The direction, management, and oversight of fraud remedies activities.

(iii) Membership and participation in the Interagency Committee on Debarment and Suspension in accordance with Executive Order No. 12549 and section 873 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (as amended by this section).

(B) The limitation in subparagraph (A) shall not be construed to prohibit a suspension and debarment official under paragraph (1) from providing authorized legal advice to the extent that the provision of such advice does not present a conflict of interest with the exercise of the duties of the suspension and debarment official under subparagraph (A).

(4) Each suspension and debarment official under paragraph (1) shall have a staff and resources adequate for the discharge of the suspension and debarment responsibilities of such official.

(5) Each suspension and debarment official under paragraph (1) shall document the basis for any decision taken pursuant to a referral in accordance with the policies established under paragraph (7), including, but not limited to, the following:

(A) Any decision to suspend or debar any person or entity.

(B) Any decision not to suspend or debar any person or entity.

(C) Any decision declining to pursue suspension or debarment of any person or entity.

(D) Any administrative agreement entered with any person or persons in lieu of suspension or debarment of such person or entity.

(6) Any decision under subparagraphs (B) through (D) of paragraph (5) shall not preclude a subsequent decision by a suspension and debarment official under paragraph (1) to suspend, debar, or enter into any administrative agreement with any person or entity based on additional information or changed circumstances. All cases, whether based on referral or internally developed, shall be documented prior to closure by the suspension and debarment official.

(7) Each suspension and debarment official under paragraph (1) shall, in consultation with the General Counsel of the covered agency concerned, establish in writing policies for the consideration of the following:

(A) Referrals of suspension and debarment matters.

(B) Suspension and debarment matters that are not referred.

(b) **COVERED AGENCY DEFINED.**—In subsection (a), the term “covered agency” means the following:

(1) The Department of Defense.

(2) The Department of State.

(3) The United States Agency for International Development.

(c) **DUTIES OF INTERAGENCY COMMITTEE ON DEBARMENT AND SUSPENSION.**—Section 873 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (31 U.S.C. 6101 note) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting “, including with respect to contracts in connection with contingency operations” before the semicolon; and

(B) in paragraph (7)—

(i) in subparagraph (B), by striking “and” at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following new subparagraphs:

“(D) a summary of suspensions, debarments, and administrative agreements during the previous year; and

“(E) a summary of referrals of suspension and debarment matters received during the previous year, including an identification of the agencies making such referrals and an assessment of the timeliness of such referrals.”; and

(2) by striking subsection (b) and inserting the following new subsections:

“(b) **DATE OF SUBMITTAL OF ANNUAL REPORTS.**—The annual report required by subsection (a)(7) shall be submitted not later than 120 days after the end of the first fiscal year ending after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013, and annually thereafter.

“(c) **DEFINITIONS.**—In this section:

“(1) The term ‘contingency operation’ has the meaning given that term in section 101(a)(13) of title 10, United States Code.

“(2) The term ‘Interagency Committee on Debarment and Suspension’ means the committee constituted under sections 4 and 5 of Executive Order No. 12549.”.

SEC. 881A. ADDITIONAL BASES FOR SUSPENSION OR DEBARMENT.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to provide for the automatic referral of a person described in subsection (b) to the appropriate suspension and debarment official for a determination whether or not the person should be suspended or debarred.

(b) **COVERED PERSONS.**—A person described in this subsection is any person as follows:

(1) A person who has been charged with a Federal criminal offense relating to the award or performance of a contract of an executive agency.

(2) A person who has been alleged, in a civil or criminal proceeding brought by the United States, to have engaged in fraudulent actions in connection with the award or performance of a contract of an executive agency.

(3) A person that does not maintain an office within the United States and has been determined by the head of a contracting agency of an executive agency to have failed to pay or refund amounts due or owed to the Federal Government in connection with the performance of a contract of the executive agency.

(c) **DEFINITIONS.**—In this section:

(1) The term “executive agency” has the meaning given that term in section 133 of title 41, United States Code.

(2) The term “person” has the meaning given that term in section 1 of title 1, United States Code.

Strike section 882 and insert the following:

SEC. 882. UNIFORM CONTRACT WRITING SYSTEM REQUIREMENTS.

(a) **UNIFORM STANDARDS AND CONTROLS REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the officials specified in subsection (b) shall—

(1) establish uniform data standards, internal control requirements, independent verification and validation requirements, and business process rules for processing procurement requests, contracts, receipts, and invoices by the Department of Defense or other executive agencies, as applicable;

(2) establish and maintain one or more approved electronic contract writing systems that conform with the standards, requirements, and rules established pursuant to paragraph (1); and

(3) require the use of electronic contract writing systems approved in accordance with paragraph (2) for all contracts entered into by the Department of Defense or other executive agencies, as applicable.

(b) **COVERED OFFICIALS.**—The officials specified in this subsection are the following:

(1) The Secretary of Defense, with respect to the Department of Defense and the military departments.

(2) The Administrator of the Office of Federal Procurement Policy, with respect to the executive agencies other than the Department of Defense and the military departments.

(c) **ELECTRONIC WRITING SYSTEMS FOR DEPARTMENT OF STATE AND USAID.**—Notwithstanding subsection (b)(2), the Secretary of State and the Administrator of the United States Agency for International Development may meet the requirements of subsection (a)(2) with respect to approved electronic contract writing systems for the Department of State and the United States Agency for International Development, respectively, if the Secretary and the Administrator, as the case may be, demonstrate to the Administrator of the Office of Federal Procurement Policy that prior investment of resources in existing contract writing systems will result in the most cost effective and efficient means to satisfy such requirements.

(d) **PHASE-IN OF IMPLEMENTATION OF REQUIREMENT FOR APPROVED SYSTEMS.**—The officials specified in subsection (b) may phase in the implementation of the requirement to use approved electronic contract writing systems in accordance with subsection (a)(3) over a period of up to five years beginning with the date of the enactment of this Act.

(e) **REPORTS.**—Not later than 180 days after the date of the enactment of this Act, the officials specified in subsection (b) shall each submit to the appropriate committees of Congress a report on the implementation of the requirements of this section. Each report shall, at a minimum—

(1) describe the standards, requirements, and rules established pursuant to subsection (a)(1);

(2) identify the electronic contract writing systems approved pursuant to subsection (a)(2) and, if multiple systems are approved, explain why the use of such multiple systems is the most efficient and effective approach to meet the contract writing needs of the Federal Government; and

(3) provide the schedule for phasing in the use of approved electronic contract writing systems in accordance with subsections (a)(3) and (d).

(f) **DEFINITIONS.**—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term “executive agency” has the meaning given that term in section 133 of title 41, United States Code.

Strike section 883 and insert the following:

SEC. 883. COMPTROLLER GENERAL OF THE UNITED STATES REVIEW OF USE BY THE DEPARTMENT OF DEFENSE, THE DEPARTMENT OF STATE, AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OF URGENT AND COMPELLING EXCEPTION TO COMPETITION.

(a) **REVIEW REQUIRED.**—The Comptroller General of the United States shall review each of the following:

(1) The use by the Department of Defense of the unusual and compelling urgency exception to full and open competition provided in section 2304(c)(2) of title 10, United States Code.

(2) The use by each of the Department of State and the United States Agency for International Development of the unusual and compelling urgency exception to full and open competition provided in section 3304(a)(2) of title 41, United States Code.

(b) **MATTERS TO BE REVIEWED.**—The review of the use of an unusual and compelling urgency exception required by subsection (a) shall include a review of the following:

(1) The pattern of use of the exception by acquisition organizations within the Department of Defense, the Department of State, and the United States Agency for International Development in order to determine which organizations are commonly using the exception and the frequency of such use.

(2) The range of items or services being acquired through the use of the exception.

(3) The process for reviewing and approving justifications involving the exception.

(4) Whether the justifications for use of the exception typically meet the relevant requirements of the Federal Acquisition Regulation applicable to the use of the exception.

(5) The extent to which the exception is used to solicit bids or proposals from only one source and the extent to which such sole-source procurements are appropriately documented and justified.

(6) The compliance of the Department of Defense, the Department of State, and the United States Agency for International Development with the requirements of section 2304(d)(3) of title 10, United States Code, or section 3304(c)(1)(B) of title 41, United States Code, as applicable, that limit the duration of contracts awarded pursuant to the exception and require approval for any such contract in excess of one year.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the review required by subsection (a), including a discussion of each of the matters specified in subsection (b). The report shall include any recommendations relating to the matters reviewed that the Comptroller General considers appropriate.

(d) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

Strike section 1245 and insert the following:

SEC. 1245. SUSTAINABILITY REQUIREMENTS FOR CERTAIN CAPITAL PROJECTS IN CONNECTION WITH OVERSEAS CONTINGENCY OPERATIONS.

(a) **LIMITATION.**—

(1) **IN GENERAL.**—Commencing 60 days after the date of the enactment of this Act—

(A) amounts authorized to be appropriated for the Department of Defense may not be obligated or expended for a capital project described in subsection (b) unless the Secretary of Defense, in consultation with the United States commander of military operations in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project;

(B) amounts authorized to be appropriated for the Department of State may not be obligated or expended for a capital project described in subsection (b) unless the Secretary of State, in consultation with the Chief of Mission in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project; and

(C) amounts authorized to be appropriated for the United States Agency for International Development may not be obligated or expended for a capital project described in subsection (b) unless the Administrator of the United States Agency for International Development, in consultation with the Mission Director and the Chief of Mission in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project.

(2) **ELEMENTS.**—Each assessment on a capital project under this subsection shall include, but not be limited to, the following:

(A) An estimate of the total cost of the completed project to the United States.

(B) An estimate of the financial and other requirements necessary for the host government to sustain the project on an annual basis after completion of the project.

(C) An assessment whether the host government has the capacity (in both financial and human resources) to maintain and use the project after completion.

(D) A description of any arrangements for the sustainment of the project following its completion if the host government lacks the capacity (in financial or human resources) to maintain the project.

(E) An assessment whether the host government has requested or expressed its need for the project, and an explanation of the decision to proceed with the project absent such request or need.

(F) An assessment by the Secretary of Defense, where applicable, of the effect of the project on the military mission of the United States in the country concerned

(b) **COVERED CAPITAL PROJECTS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), a capital project described in this subsection is any capital project overseas for an overseas contingency operation for the benefit of a host country and funded by the Department of Defense, the Department of State, or the United States Agency for International Development, as applicable, if the capital project—

(A) in the case of a project that directly supports building the capacity of indigenous security forces in the host country, has an estimated value in excess of \$10,000,000;

(B) in the case of any project not covered by subparagraph (A) that is to be funded by the Department of State or the United States Agency for International Development, has an estimated value in excess of \$5,000,000; or

(C) in the case of any other project, has an estimated value in excess of \$2,000,000.

(2) EXCLUSION.—A capital project described in this subsection does not include any project for military construction (as that term is defined in section 114(b) of title 10, United States Code) or a military family housing project under section 2821 of such title.

(c) WAIVER.—The Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development, as applicable, may waive the limitation in subsection (a) in order to initiate a capital project if such Secretary or the Administrator, as the case may be, determines that the project is in the national security, diplomatic, or humanitarian interests of the United States. In the first report submitted under subsection (d) after any waiver under this subsection, such Secretary or the Administrator shall include a detailed justification of such waiver. Not later than 45 days after issuing a waiver under this subsection, such Secretary or the Administrator shall submit to Congress the assessment described in subsection (a) with respect to the capital project concerned.

(d) SEMI-ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than 30 days after the end of each fiscal-year half-year the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall each submit to the appropriate committees of Congress a report setting forth each assessment conducted under subsection (a) by such Secretary or the Administrator, as the case may be, during such fiscal-year half-year, including the elements of each capital project assessed specified in subsection (a)(2).

(2) ADDITIONAL ELEMENTS.—In addition to the matters provided for in paragraph (1), each report under that paragraph shall include the following:

(A) For each capital project covered by such report, an evaluation (other than by amount of funds expended) of the effectiveness of such project, including, at a minimum, the following:

- (i) The stated goals of the project.
- (ii) The actions taken to assess and verify whether the project has met the stated goals of the project or is on track to meet such goals when completed.
- (iii) The current and anticipated levels of involvement of local governments, communities, and individuals in the project.

(B) For each country or region in which a capital project covered by such report is being carried out, an assessment of the following:

- (i) The current and anticipated effects of violence in the country or region on all the projects in the country or region covered by such report.
- (ii) The current and anticipated levels of corruption or fraud in the country or region in the connection with all the projects in the country or region covered by such report, and the current and anticipated risks of corruption or fraud in connection with such projects.

(3) FORM.—Each report shall be submitted in unclassified form, but may include a classified annex.

(e) DEFINITIONS.—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term “capital project” has the meaning given that term in section 308 of the Aid, Trade, and Competitiveness Act of 1992 (22 U.S.C. 2421e).

(3) The term “overseas contingency operation” means a military operation outside the United States and its territories and possessions that is a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code).

SA 2930. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 405, line 25, strike “Section 1217(f)” and insert “(a) EXTENSION AND MODIFICATION.—Section 1217(f)”.

On page 407, between lines 17 and 18, insert the following:

(b) TERMINATION OF CERTAIN UNSUSTAINABLE PROJECTS IN PROGRESS AND AVAILABILITY OF FUNDS FOR INFRASTRUCTURE PROJECTS IN THE UNITED STATES.—

(1) IN GENERAL.—Effective 180 days after the date of the enactment of this Act, the Secretary of Defense shall terminate each infrastructure project funded under section 1217 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (as amended by subsection (a)) that is in progress, but not completed, as of such effective date unless the Secretary determines, with supporting auditable information, that the Government of Afghanistan has the capacity (in both financial and human resources) to effectively maintain and use the project. If a project to be terminated is being carried out by another department or agency of the United States Government, the Secretary shall terminate the project in coordination with the head of such department or agency.

(2) AVAILABILITY OF FUNDS.—

(A) DEPOSIT OF FUNDS IN TREASURY.—Notwithstanding subsection (h) of section 1217 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, the Secretary of Defense shall deposit in the Treasury an amount equal to the amount remaining available for expenditure on infrastructure projects terminated under paragraph (1) at the time of termination. The amount deposited shall be derived from amounts available for the infrastructure projects so terminated.

(B) AVAILABILITY OF FUNDS.—From amounts in the Treasury not otherwise appropriated, there shall be available to the Secretary of Transportation for transportation infrastructure projects in the United States otherwise authorized by law an amount equal to the amount deposited in the Treasury under subparagraph (A).

(C) COORDINATION.—The Secretary of Defense and the Secretary of Transportation shall carry out this paragraph in coordination with the Secretary of the Treasury.

(3) REPORT.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth the determinations of the Secretary for purposes of paragraph (1) whether or not to terminate each infrastructure project described in that paragraph. If the Secretary determines not to terminate a project, the element of the report on the project shall include the auditable informa-

tion supporting the determination as described in that paragraph.

(4) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

SA 2931. Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 2875 proposed by Mr. REID (for Mr. TESTER) to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 201(2) and insert the following:

(2) AQUATIC HABITAT.—The term “aquatic habitat” means an area on which an aquatic organism depends to carry out the life processes of the organism, including an area used by the organism for spawning, incubation, nursery, rearing, growth to maturity, food supply, or migration.

SA 2932. Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 2875 proposed by Mr. REID (for Mr. TESTER) to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

In section 211(e)(2), insert “Federal or non-Federal” after “use of”.

SA 2933. Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 2875 proposed by Mr. REID (for Mr. TESTER) to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

In section 204(f)(4), strike “considered to be approved” and insert “considered to be rejected”.

SA 2934. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purpose; which was ordered to lie on the table; as follows:

On page 550, beginning on line 15, strike “; and” and all that follows through line 16 and insert the following: “;”

(2) by inserting “or fiscal year 2013” after “fiscal year 2012”; and

(3) by inserting before the period at the end the

(1)(A) are developed in accordance with rules accredited by the American National Standards Institute; and

(B) are approved as American National Standards; or

(2) incorporate and document the use of lifecycle assessment in the evaluation of building materials.

SA 2935. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purpose; which was ordered to lie on the table; as follows:

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

SEC. 526. COMMAND RESPONSIBILITY AND ACCOUNTABILITY FOR REMAINS OF MEMBERS OF THE ARMY, NAVY, AIR FORCE, AND MARINE CORPS WHO DIE OUTSIDE THE UNITED STATES.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall take such actions as may be necessary to ensure that there is continuous, designated military command responsibility and accountability for the care, handling, and transportation of the remains of each deceased member of the Army, Navy, Air Force, or Marine Corps who dies outside the United States, beginning with the initial recovery of the remains, through the defense mortuary system, until the interment of the remains or the remains are otherwise accepted by the person designated as provided by section 1482(c) of title 10, United States Code, to direct disposition of the remains.

SA 2936. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purpose; which was ordered to lie on the table; as follows:

On page 34, line 24, insert "level II" after "survivability".

SA 2937. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purpose; which was ordered to lie on the table; as follows:

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

SEC. 2824. PROHIBITION ON USE OF FUNDS FOR IMPLEMENTATION OF CERTAIN GREEN BUILDING STANDARDS.

No funds authorized to be appropriated by this Act or otherwise made available for the Department of Defense for fiscal year 2013 may be obligated or expended to implement or use green building rating standards unless the standards—

SA 2938. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the De-

partment of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 526. REQUIREMENTS IN CONNECTION WITH CERTAIN TRANSFERS OF PERSONNEL TO THE ARMED FORCES FROM OTHER UNIFORMED SERVICES.

In order to facilitate transfers of personnel to the Armed Forces from other uniformed services pursuant to an inter-service transfer described in Department of Defense Directive 1300.4, dated December 27, 2006, the Secretary of Defense shall—

(1) coordinate with the Secretary of Homeland Security and the Secretary of Commerce to promote and streamline such transfers;

(2) give preference to such transfers as a means of recruitment of personnel for the Armed Forces; and

(3) to the extent practicable, appoint a person upon transfer in the same or equivalent grade held by the person before transfer.

SA 2939. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 847. CONSIDERATION AND VERIFICATION OF INFORMATION RELATING TO EFFECT ON DOMESTIC EMPLOYMENT OF AWARD OF DEFENSE CONTRACTS.

(a) IN GENERAL.—Section 2305(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6)(A) The head of an agency, in issuing a solicitation for competitive proposals, shall state in the solicitation that the agency may consider information (in this paragraph referred to as a 'jobs impact statement') that the offeror may include in its offer related to the effects on employment within the United States of the contract if it is awarded to the offeror.

"(B) The information that may be included in a jobs impact statement may include the following:

"(i) The number of jobs expected to be created in the United States, or the number of jobs retained that otherwise would be lost, if the contract is awarded to the offeror.

"(ii) The number of jobs created or retained in the United States by the subcontractors expected to be used by the offeror in the performance of the contract.

"(iii) A guarantee from the offeror that jobs created or retained in the United States in connection with the contract will not be moved outside the United States after award of the contract.

"(C) The contracting officer may consider the information in the jobs impact statement in the evaluation of the offer.

"(D) The agency may request further information from the offeror in order to verify the accuracy of the information in the jobs impact statement.

"(E) In the case of a contract awarded to an offeror that submitted a jobs impact statement with the offer for the contract, the agency shall, not later than six months

after the award of the contract and annually thereafter for the duration of the contract or contract extension, assess the accuracy of the jobs impact statement.

"(F) The Secretary of Defense shall submit to Congress an annual report on the frequency of use within the Department of Defense of jobs impact statements in the evaluation of competitive proposals."

(b) REVISION OF FEDERAL ACQUISITION REGULATIONS.—The Federal Acquisition Regulation shall be revised to implement the amendment made by this section.

SA 2940. Mr. BLUMENTHAL (for himself, Mr. KERRY, Mrs. MURRAY, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1048. MILITARY WORKING DOG MATTERS.

(a) RETIREMENT OF MILITARY WORKING DOGS.—

(1) Section 2583 of title 10, United States Code, is amended—

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

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

"(f) TRANSFER OF RETIRED MILITARY WORKING DOGS.—If the Secretary of the military department concerned determines that a military working dog should be retired, and no suitable adoption is available at the military facility where the dog is located, the Secretary may transfer the dog—

"(1) to the 341st Training Squadron; or

"(2) to another location for adoption under this section."

(b) VETERINARY CARE FOR RETIRED MILITARY WORKING DOGS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 993. Military working dogs: veterinary care for retired military working dogs"

"(a) IN GENERAL.—The Secretary of Defense may establish and maintain a system to provide for the veterinary care of retired military working dogs. No funds may be provided by the Federal Government for this purpose.

"(b) ELIGIBLE DOGS.—A retired military working dog eligible for veterinary care under this section is any military working dog adopted under section 2583 of this title.

"(c) STANDARDS OF CARE.—The veterinary care provided under the system authorized by this section shall meet such standards as the Secretary shall establish and from time to time update."

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 50 of such title is amended by adding at the end the following new item:

"993. Military working dogs: veterinary care for retired military working dogs."

(c) RECOGNITION OF SERVICE OF MILITARY WORKING DOGS.—The Secretary of Defense may authorize the recognition of military working dogs that are killed, wounded, or missing in action and military working dogs that perform an exceptionally meritorious or courageous act in service to the United States.

SA 2941. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1084. PROTECTION OF VETERANS' MEMORIALS.

Section 2314 of title 18, United States Code, is amended by adding at the end the following:

"In the case of an offense under the first paragraph of this section, if the goods, wares, or merchandise consist of or include a veterans' memorial, the requirement of that paragraph that the goods, wares, or merchandise have a value of \$5,000 or more does not apply. In this paragraph, the term 'veterans' memorial' means a grave marker, headstone, monument, or other object, intended to permanently honor a veteran or mark a veteran's grave, or any monument that signifies an event of national military historical significance."

SA 2942. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 248, between lines 19 and 20, insert the following:

SEC. 844A. WHISTLEBLOWER PROTECTIONS FOR NON-DEFENSE CONTRACTORS.

(a) WHISTLEBLOWER PROTECTIONS.—

(1) IN GENERAL.—Chapter 47 of title 41, United States Code, is amended by adding at the end the following new section:

"SEC. 4712. CONTRACTOR AND GRANTEE EMPLOYEES: PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.

"(a) PROHIBITION OF REPRISALS.—

"(1) IN GENERAL.—An employee of a contractor, subcontractor, or grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

"(2) PERSONS AND BODIES COVERED.—The persons and bodies described in this paragraph are the persons and bodies as follows:

"(A) A Member of Congress or a representative of a committee of Congress.

"(B) An Inspector General.

"(C) The Government Accountability Office.

"(D) A Federal employee responsible for contract or grant oversight or management at the relevant agency.

"(E) An authorized official of the Department of Justice or other law enforcement agency.

"(F) A court or grand jury.

"(G) A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

"(3) RULES OF CONSTRUCTION.—For the purposes of paragraph (1)—

"(A) an employee who initiates or provides evidence of contractor, subcontractor, or grantee misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Federal contract or grant shall be deemed to have made a disclosure covered by such paragraph; and

"(B) a reprisal described in paragraph (1) is prohibited even if it is undertaken at the request of an executive branch official, unless the request takes the form of a non-discretionary directive and is within the authority of the executive branch official making the request.

"(b) INVESTIGATION OF COMPLAINTS.—

"(1) SUBMISSION OF COMPLAINT.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency involved. Unless the Inspector General determines that the complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor or grantee concerned, and the head of the agency.

"(2) INSPECTOR GENERAL ACTION.—

"(A) DETERMINATION OR SUBMISSION OF REPORT ON FINDINGS.—Except as provided under subparagraph (B), the Inspector General shall make a determination that a complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant or submit a report under paragraph (1) within 180 days after receiving the complaint.

"(B) EXTENSION OF TIME.—If the Inspector General is unable to complete an investigation in time to submit a report within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the Inspector General shall submit a report under paragraph (1) within such additional period of time, up to 180 days, as shall be agreed upon between the Inspector General and the person submitting the complaint.

"(3) PROHIBITION ON DISCLOSURE.—The Inspector General may not respond to any inquiry or disclose any information from or about any person alleging the reprisal, except to the extent that such response or disclosure is—

"(A) made with the consent of the person alleging the reprisal;

"(B) made in accordance with the provisions of section 552a of title 5 or as required by any other applicable Federal law; or

"(C) necessary to conduct an investigation of the alleged reprisal.

"(4) TIME LIMITATION.—A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—

"(1) IN GENERAL.—Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the executive agency concerned shall determine whether there is sufficient basis to conclude that the contractor or grantee concerned has subjected the complainant to a reprisal pro-

hibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:

"(A) Order the contractor or grantee to take affirmative action to abate the reprisal.

"(B) Order the contractor or grantee to reinstate the person to the position that the person held before the reprisal, together with compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the contractor or grantee to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the executive agency.

"(2) EXHAUSTION OF REMEDIES.—If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the contractor or grantee to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this paragraph may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

"(3) ADMISSIBILITY OF EVIDENCE.—An Inspector General determination and an agency head order denying relief under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought pursuant to this subsection.

"(4) ENFORCEMENT OF ORDERS.—Whenever a person fails to comply with an order issued under paragraph (1), the head of the executive agency concerned shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the executive agency.

"(5) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the executive agency. Review shall conform to chapter 7 of title 5. Filing such an appeal shall not act to stay the enforcement of the order of the head of an executive agency, unless a stay is specifically entered by the court.

"(6) BURDENS OF PROOF.—The legal burdens of proof specified in section 1221(e) of title 5 shall be controlling for the purposes of any

investigation conducted by an Inspector General, decision by the head of an executive agency, or judicial or administrative proceeding to determine whether discrimination prohibited under this section has occurred.

“(7) RIGHTS AND REMEDIES NOT WAIVABLE.—The rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement, other than an arbitration provision in a collective bargaining agreement.

“(d) NOTIFICATION OF EMPLOYEES.—The head of each executive agency shall ensure that contractors, subcontractors, and grantees of the agency inform their employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

“(e) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘abuse of authority’ means an arbitrary and capricious exercise of authority that is inconsistent with the mission of the executive agency concerned or the successful performance of a contract or grant of such agency.

“(2) The term ‘Inspector General’ means an Inspector General appointed under the Inspector General Act of 1978 and any Inspector General that receives funding from, or has oversight over contracts or grants awarded for or on behalf of, the executive agency concerned.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“4712. Contractor and grantee employees: protection from reprisal for disclosure of certain information.”.

(b) ALLOWABILITY OF LEGAL FEES.—Section 4310 of title 41, United States Code, is amended—

(1) in subsection (b), by striking “commenced by the Federal Government or a State” and inserting “commenced by the Federal Government, by a State, or by a contractor or grantee employee submitting a complaint under section 4712 of this title”; and

(2) in subsection (c)(3), by striking “the imposition of a monetary penalty” and inserting “the imposition of a monetary penalty or an order to take corrective action under section 4712 of this title”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply to—

(A) all contracts and grants awarded on or after such date;

(B) all task orders entered on or after such date pursuant to contracts awarded before, on, or after such date; and

(C) all contracts awarded before such date that are modified to include a contract clause providing for the applicability of such amendments.

(2) REVISION OF FEDERAL ACQUISITION REGULATION.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the requirements arising under the amendments made by this section.

(3) INCLUSION OF CONTRACT CLAUSE IN CONTRACTS AWARDED BEFORE EFFECTIVE DATE.—At the time of any major modification to a

contract that was awarded before the date that is 180 days after the date of the enactment of this Act, the head of the contracting agency shall make best efforts to include in the contract a contract clause providing for the applicability of the amendments made by this section to the contract.

SA 2943. Mr. WEBB (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SECTION 1084. AMENDMENTS TO LAW ENFORCEMENT OFFICER SAFETY PROVISIONS OF TITLE 18.

Chapter 44 of title 18, United States Code, is amended—

(1) in section 926B—

(A) in subsection (c)(1), by inserting “or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice)” after “arrest”; and

(B) in subsection (d), by striking “as a law enforcement officer” and inserting “that identifies the employee as a police officer or law enforcement officer of the agency”; and

(C) in subsection (f), by inserting “or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice)” after “arrest”; and

(2) in section 926C—

(A) in subsection (c)(2), by inserting “or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice)” after “arrest”; and

(B) in subsection (d)—

(i) in paragraph (1), by striking “that indicates” and inserting “that identifies the person as having been employed as a police officer or law enforcement officer and indicates”; and

(ii) in paragraph (2)(A), by inserting “that identifies the person as having been employed as a police officer or law enforcement officer” after “officer”.

SA 2944. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1084. SENSE OF CONGRESS ON NATIONAL YOUTH DEVELOPMENT ORGANIZATIONS.

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

(1) Children of military personnel face challenges in development and education stemming from the frequent changes of station and deployments required of military personnel.

(2) National youth development organizations, in collaboration with local schools and communities, can be a valuable asset in pro-

viding consistent stability, education, youth development, and prevention programs for children of military personnel.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department of Defense should continue to pursue partnerships with national youth development organizations to support supplemental education and youth development programs for the children of military personnel.

(c) NATIONAL YOUTH DEVELOPMENT ORGANIZATION DEFINED.—In this section, the term “national youth development organization” means a nonprofit organizations with active affiliates in all 50 States that provides youth development, prevention, and related programs and services for children.

SA 2945. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

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

SEC. 903. CONFLICT RECORDS RESEARCH CENTER.

(a) IN GENERAL.—Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 430. Conflict Records Research Center

“(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center to be known as the ‘Conflict Records Research Center’ (in this section referred to as the ‘Center’).

“(b) PURPOSES.—The purposes of the Center shall be as follows:

“(1) To establish a digital research database (including translations) and to facilitate research and analysis of captured records from countries, organizations, and individuals now or once hostile to the United States.

“(2) To make a significant portion of the records described in paragraph (1) available to researchers as quickly and responsibly as possible while taking into account legitimate national security concerns, the integrity of the academic process, and risks to innocents or third parties.

“(3) To conduct and disseminate research and analysis with respect to the records described in paragraph (1) in order to increase the understanding of matters relating to international relations, counterterrorism, and warfare and, ultimately, to enhance national security.

“(4) To collaborate with members of the academic and national security communities, both domestic and international, on research, conferences, seminars, and other information exchanges to identify topics of importance on the matters referred to in paragraph (3) for the United States Government and the academic community.

“(c) CONCURRENCE OF DNI IN CERTAIN ACTIVITIES.—The Secretary shall seek the concurrence of the Director of National Intelligence in the conduct by the Center of any activities under subsection (b)(4).

“(d) SUPPORT FROM OTHER FEDERAL GOVERNMENT DEPARTMENTS OR AGENCIES.—The head of any non-Department of Defense department or agency of the Federal Government may—

“(1) provide to the Secretary services, including personnel support, to support the operations of the Center; and

“(2) transfer funds to the Secretary to support the operations of the Center.

“(e) ACCEPTANCE OF GIFTS AND DONATIONS.—(1) Subject to paragraph (3), the Secretary may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center.

“(2) The sources specified in this paragraph are the following:

“(A) The government of a State or a political subdivision of a State.

“(B) The government of a foreign country.

“(C) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

“(D) Any source in the private sector of the United States or a foreign country.

“(3) The Secretary may not accept a gift or donation under this subsection if acceptance of the gift or donation would compromise or appear to compromise—

“(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

“(B) the integrity of any program of the Department or of any person involved in such a program.

“(4) The Secretary shall provide written guidance setting forth the criteria to be used in determining the applicability of paragraph (3) to any proposed gift or donation under this subsection.

“(f) CREDITING OF FUNDS TRANSFERRED OR ACCEPTED.—Funds transferred to or accepted by the Secretary under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘captured record’ means a document, audio file, video file, or other material captured during combat operations from or in countries, organizations, or individuals hostile to the United States at the time of such operations.

“(2) The term ‘gift or donation’ means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 21 of such title is amended by adding at the end the following new item:

“430. Conflict Records Research Center.”.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet during the session of the Senate on November 29, 2012, in room SD-628 of the Dirksen Senate Office Building, at 2:30 p.m., to conduct a hearing entitled “Reclaiming Our Image and Identity for the Next Seven Generations.”

Those wishing additional information may contact the Indian Affairs Committee at (202) 224-2251.

PRIVILEGES OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that Kevin Reed, a fellow in Senator MARK UDALL's office, be granted floor privileges during the Senate's session for the week of November 26, 2012, through November 30, 2012.

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

CHILD PROTECTION ACT OF 2012

Mr. LEVIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 6063 and the Senate proceed to its consideration.

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

The clerk will report the bill by title. The legislative clerk read as follows:

A bill (H.R. 6063) to amend title 18, United States Code, with respect to child pornography and child exploitation offenses.

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

Mr. LEVIN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 6063) was ordered to a third reading, was read the third time, and passed.

MEASURE READ THE FIRST TIME—S. 3637

Mr. LEVIN. Mr. President, I understand that S. 3637, introduced earlier

today by Senator REID, is at the desk, and I ask for its first reading.

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

The legislative clerk read as follows:

A bill (S. 3637) to temporarily extend the transaction account guarantee program, and for other purposes.

Mr. LEVIN. Mr. President, I now ask for its second reading and object to my own request.

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

ORDERS FOR TUESDAY, NOVEMBER 27, 2012

Mr. LEVIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Tuesday, November 27; that 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 be reserved for their use later in the day; that the majority leader be recognized and that the first hour be equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus meetings.

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

PROGRAM

Mr. LEVIN. Mr. President, we hope to consider the disabilities treaty during tomorrow's session.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LEVIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:12 p.m., adjourned until Tuesday, November 27, 2012, at 10 a.m.