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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LATHAM).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 19, 2004.

I hereby appoint the Honorable TOM LATHAM to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Pete Wall, Pastor, Jackson Baptist Church, Sylvania, Georgia, offered the following prayer:

Lord, I thank You that You allow me the great privilege and opportunity to speak to You, the King of Kings and the Lord of Lords.

Lord, I know based on Your word that You respond favorably to those who obey You. Therefore, Lord, I ask that even now You might deal with all those in this House on the urgency of that obedience. Lord, we as a Nation face challenges in the days ahead, problems we have brought on ourselves because many have forgotten whose Nation we are.

Lord, help all to understand that the Earth does not just quake, that fires do not just burn, that the storms do not just show up, but that all are under the control of You, an awesome God who will be heard. Lord, that we might understand that it is not knowledge which is the opinion of man but wisdom which is the gift of God that needs to prevail here in this place this day and every day. Convict those who so foolishly overlook the guidance that You so wonderfully and generously offer. Deal with us now individually and collectively, that our hearts' desire might be Your desire, that our will might be given over to do Your will, that we would only think and say and do those things that we are led to do by You. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. BRADY) come forward and lead the House in the Pledge of Allegiance.

Mr. BRADY of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 923. An act to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve.

H.R. 3104. An act to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

WELCOMING THE REVEREND PETE WALL

(Mr. BURNS asked and was given permission to address the House for 1 minute.)

Mr. BURNS. Mr. Speaker, I rise to recognize the guest chaplain for today. The Reverend Pete Wall is the pastor of Jackson Baptist Church in rural Screven County, Georgia. It is my home church in my home community. It was the church of my father and my grandfather. It is just across the road from our family farm. As my colleagues might imagine, this church and the community that surrounds it has been a guiding force in my life and is dear to my heart.

We rarely call him ''Reverend'' at home. It is just ''Brother Pete.'' Pete Wall is a shepherd, both literally and figuratively. He is widely known for his knowledge of livestock, especially sheep. But he is more widely known and loved for his ministry to others. Pete has a shepherd's heart. He cares for his flock. His homespun wisdom and amazing storytelling ability easily wins friends and disarms those who might be put off by a more formal religion or a typical preacher. He has a deep and abiding faith in Jesus Christ, and he lives it every day. Pete readily shares his faith with those who wish to learn about a Christ-centered life, yet he never forces his views on others.

Pete has been a blessing to our church and our community for 7 years. It has been a great joy in my life to know him, his wife, Gina, and their family.

Mr. Speaker, it is a great honor and privilege to have the Reverend Pete Wall as our guest chaplain today. He is my pastor, he is my friend, but most importantly he is my brother in Christ.

COURT MARTIAL OF SPECIALIST JEREMY SIVITS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, today the United States proved that we are a

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Nation of laws and a Nation of justice. In Baghdad, Army Specialist Jeremy Sivits pleaded guilty to three charges surrounding his mistreatment of prisoners in Abu Ghraib prison. The judge in the case sentenced him to confinement for 1 year, reduced his rank to private, and gave him a dishonorable discharge from the Army. Three other soldiers have appeared for arraignment of charges regarding their roles in these incidents.

While the outrage over the abuses at the prison are justified, I am hopeful, Mr. Speaker, that we will see greater justice for those murderers who committed the disgusting, vile act in the killing of American civilian Nick Berg. I hope the Iraqis and the Arab world realize that law and justice are universal values for all nations.

THE HEALTH OF THE AMERICAN PEOPLE AND ECONOMY: WORSE OFF UNDER BUSH

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I look back to the year 2000 and I see a different country from the one we live in today. In 2000, we entered a new century having enjoyed a decade of unprecedented economic growth. During the 1990s we got our priorities together, erased the Federal budget deficit, and put in place the fiscal discipline that created a $5.6 trillion surplus. That $5.6 trillion surplus gave us the ability to tackle problems and ensure the solvency of Social Security and Medicare.

The election of President Bush, however, ushered in a new era of misguided priorities that have failed. Without a doubt, our country is worse off now than it was 4 years ago. We stand now, this administration has taken that $5.6 trillion surplus and turned it into $4 trillion of red ink. Their insistence on tax cuts we cannot afford has starved our States, forcing them to cut countless services. We have lost 2.8 million jobs, most of them in manufacturing. Today, 44 million Americans are uninsured. We have an administration that cuts people from overtime pay and prohibits lifesaving stem cell research.

Mr. Speaker, this administration's track record shows a derailment. The American people deserve a stable economy and a reliable health care system.

SENIORS BENEFIT FROM MEDICARE PRESCRIPTION DRUG DISCOUNT CARD

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, since May 3, the first day that seniors could sign up for a Medicare prescription drug discount card, I have had the opportunity to hold workshops at senior centers in Smyrna, Cedartown, Rome, Cartersville, Talbotton, and Thomaston, all cities in Georgia's 11th Congressional District.

Here is what I tell the people at these town hall meetings: call 1–800–Medicare, everybody can do that, or visit www.medicare.gov on the Web and find out which card will save you the most money and sign up ASAP. It is that simple. All the naysayers want to convince seniors that signing up for the card is too confusing or will not save them any money. I cannot think of any reason why any senior should not sign up for the card.

Beneficiaries with incomes of less than $12,000 for an individual or $16,000 for a couple, they get $600 in addition to the discount on the card. That is a total of almost $20 million in additional help for 16,500 seniors in Georgia's 11th District for 2004 and 2005.

Yes, we have already seen the power of market forces at work. The prices are coming down, and it is not by government price controls. For seniors who have struggled to buy drugs, they certainly are better off now than they were 4 years ago.

ARE WE BETTER OFF TODAY THAN WE WERE 4 YEARS AGO?

(Mr. ROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSS. Mr. Speaker, are we better off today than we were 4 years ago? Let us look at the facts.

Three years ago, our country was thriving. We were running on a $236 billion budget surplus and 22 million jobs were created between 1992 and 2000. However, today 9 million Americans are out of work and 44 million Americans are without health insurance. Gas prices are at a 23-year high, and household income has decreased by almost $1,500. We have the largest budget deficit ever for the second year in a row in our Nation's history. Our government spends $900,000 more a minute than it takes in, and it borrows $1.1 billion a day. Corporate profits are up, but wages for working families are down. It is the most anemic growth since World War II.

So are we better off today than we were 4 years ago? I think it is easy to see the answer is clearly ''no.''

KERRY'S NEW SLOGAN—ARE YOU BETTER OFF NOW THAN 4 YEARS AGO?

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, here they go again. Candidate KERRY and the Democrats are trying to take a page out of President Reagan's handbook. Unfortunately, for the taxpayers, it is not a page dealing with tax relief. KERRY's consultants are telling Democrats to ask this question: Are you better off now than you were 4 years ago?

Four years ago under a different administration, this Nation slept while al Qaeda plotted. We were deceived by a hollow technology bubble. Our seniors had no assistance with prescription drugs. And 4 years ago, Americans paid a marriage tax, a death tax, an estate tax, and across the board Americans paid higher income taxes.

President Bush has led us through some of the most challenging times in our Nation's history. Our economy is growing hundreds of thousands of jobs each month. More Americans are working than ever. More Americans own a home than ever. Our Armed Forces have terrorists on the run.

In Candidate KERRY's world, we would treat terrorism as a law enforcement issue. Mr. Speaker, I think those advisers need to go back to the drawing board.

ECONOMIC INDICATOR?

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, on April 24, President Bush visited the Timken Company, a plant in Canton, Ohio. He touted there his economic program and his tax cuts. Just the other day in Timken, Ohio, they closed the plant, firing 1,300 employees.

The President went on to say on his visit that his tax cut would end the double taxation of stock dividends which would mean, and I quote the President, ''companies like Timken have got a better capacity to expand, more jobs.'' He went on to say, ''We can do whatever it takes to overcome the obstacles in our way. I know you're optimistic about the future of this company.''

Three tax cuts, $3 trillion in debt, 3 more million Americans without jobs, 3 more million Americans in poverty since he has been President, and 43 million uninsured Americans. I am not sure we can afford this much progress in America. After announcing his tax cut in Timken, Ohio, the other day, just 2 days ago, the executive closed the plant firing 1,300 workers.

We can do better. There is a new direction in America that puts working families at the center of our economic policies rather than dividend tax cuts for contributors who support the President's reelection.

MESSAGE TO TROOPS: WE ARE WITH YOU

(Mr. BRADY of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADY of Texas. Mr. Speaker, the Abu Ghraib prison guards in Iraq betrayed their fellow soldiers and our Nation with their indefensible acts. But this past week in Washington watching some Members of the House and Senate exploit this behavior to degrade our entire military and just

score political points, I believe they betray our troops as well.

It is never wrong to seek the truth, and we will find it in Abu Ghraib. But let us not make a bad situation worse with ill-chosen words and broad accusations. I reject the claim that ''Saddam's torture chambers reopened under new management, U.S. management.'' I reject those who malign the character of our entire military. And I reject those around the world who clamor that the prison guards reform the values of America, our soldiers, or our President. They are wrong.

The real truth is that over 130,000 American fighting men and women endanger their own lives in Iraq each day. They serve far from the comfort of their families for long periods of time. The rest of the world should be down on its knees every night thanking them for it. We are.

I have a message for our troops: Ignore the blowhards in Washington. Do not listen to the national media. You are good and decent people fighting for our freedom and security. Your friends and families know this. America knows this. We are with you.

□ 1015

LOWER GAS PRICES NOW

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to call on this administration to take action now to reduce the price of gasoline in this country. Across my district folks are suffering painfully from the skyrocketing fuel costs to record levels. Yet this administration has failed to provide relief.

Last month, OPEC cut production of crude oil by 2 million barrels, and the national average price for a gallon of gasoline has risen to more than $2 a gallon. Yet the administration has done nothing to get OPEC to open the spigots back up.

North Carolina's economy is hurting. A truck driver approached me at church on Sunday and complained that his business is suffering because of the record high fuel prices. These gas prices will make the administration's record on job growth even worse while the big oil companies laugh all the way to the bank.

First quarter profits for Conoco-Phillips went up 44 percent. Exxon-Mobil reported a 125 percent increase. Chevron-Texaco hit a gusher with a 294 percent increase.

Mr. Speaker, I call on the White House and the administration to get to work, to get OPEC and the big oil companies to lower gas prices now.

BIPARTISAN PROBLEM SOLVING NEEDED

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I have to address the previous speaker regarding the price of energy and the shortage of energy that is claimed throughout the world. I think it is important that all of us realize that for the gentleman from Massachusetts, the candidate for President of the United States in the other party, to go and complain about fuel prices is like the kids that kill their parents and then claim that they are orphans and should be given special treatment. That is absolutely absurd.

When the Senate blocked the energy bill, it blocked the administration's plan to have an energy bill, an energy bill for this country. It is time that we stop the rhetoric, we stop the bipartisan quibbling. Republicans and Democrats are paying too much for fuel. We need an energy policy in this country, and the first step was the energy bill that stalled over in the other body. It is time for us to work together to solve problems instead of just creating them.

HEALTH CARE IS NOT BETTER OFF

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, I have a question for the audience here today.

Are we better off now than when President Bush took office? When you look at health care it certainly does not look like it.

Since President Bush took office an additional 3.8 million Americans are uninsured, and for Americans lucky enough to have health insurance, their premiums have increased by almost 50 percent since President Bush took office. In fact, total family premiums have risen more than $2,700 in 4 years, a rate four times as fast as workers' salaries. This is basically a tax increase on the middle class. It is hard to be healthy when you have to choose between paying rent and going to the doctor.

This is a real crisis. It has real consequence. Eighteen thousand people die prematurely each year because they do not have health insurance. And how do the administration and the Republicans running the Congress respond? With special interest proposals like tort reform, health savings account and association health plans.

These proposals will not lower health care costs. We are not better off in these last 4 years.

USER FRIENDLY MEDICARE DRUG CARD

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, there is no question in my mind that the availability of the Medicare prescription drug discount card this June is going to have a dramatic influence on the cost of prescription drugs in this country. For the first time, seniors are going to have an open and transparent market; and we have seen in the last 3 weeks how this has brought the price of medications down with people being able to be compare for the first time, go to a database on the Internet and compare drug prices for themselves.

1–800–Medicare, that the gentleman from Georgia pointed out, or www.Medicare.gov can take you through the process. I have done it myself. It is easy. It is simple. It is self-explanatory. Simplicity and efficiency are the keys to bringing the cost down in this market.

Liability reform is not a special interest reform. It affects everyone in this country. The embedded costs of liability in the medical justice system in this country and the results of defensive medicine that we all pay for cost the Medicare system $50 billion a year.

BROKEN PROMISES TO STUDENTS

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, are families and college students better off than they were 4 years ago? Not when it comes to being able to afford a higher education.

In the year 2000, when candidate George Bush said we should make the path to college open for all, that was his promise. Four years later that path is covered in weeds and broken promises, and President Bush and the Republicans must accept responsibility for their failed leadership in this area.

Since 2001 a 4-year public college tuition has increased by almost 30 percent. How has President Bush responded? Each year, he broke his promise to provide a $5,100 maximum Pell grant to all first-year college students. In fact, the Pell grant this year is worth $500 less than it was 30 years ago, and the President's 2005 budget eliminates Pell grants from 95,000 deserving students who need that money to pursue a higher education.

Now the Republicans are rubber-stamping the President's legislation that would force the typical student borrower to pay $5,500 more for their student loan than they currently do. I do not think those students believe they are better off than they were 4 years ago.

HONORING MARO K. ROGERS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, this week, one of South Carolina's most beloved educators will retire after 41 years. Maro K. Rogers has

been teaching at the Little Red Schoolhouse kindergarten since 1963, and has personally taught around 1,500 students in the community of Lexington, South Carolina. Maro and her husband, Hugh Rogers, a former mayor of Lexington, built the schoolhouse in their own back yard where it stands today.

Maro has taught the essentials of learning to three generations of children. Students learned their ABCs, sang songs, listened to Mrs. Rogers read stories, and took fields trips throughout the midlands of South Carolina for first-hand education.

Maro Rogers, a native of Baghdad, Iraq, of Armenian heritage, stands as a shining example of how one dedicated teacher can make a dramatic impact in the lives of our children. I ask all of my colleagues to join me in thanking Maro Rogers for her service to South Carolina's youngest students.

In conclusion, may God bless our troops and we will never forget September 11.

REFORM HEALTH CARE

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, like the economy the war and the United States' credibility around the world, health care is another casualty of the Bush administration.

Today, nearly 44 million Americans are without health insurance. The vast majority of those people live in households where someone is working full time. The cost to cover the uninsured is about 5 months' worth of the war in Iraq. Meanwhile, Americans who have health insurance are being forced to pay more than ever before. And the administration wants to shift even more of the burden to every American under the guise of reform.

A new study by researchers at Oregon Health and Science University put it bluntly, ''We spend much more than any other industrialized country in the world on a per capita basis and we get much less in return.''

Health care is a crisis that demands real leadership and real solutions. So health care will remain a crisis as long as the administration remains in office. The 2nd of November cannot come soon enough for Americans without health insurance.

BE HONEST TO OUR SENIORS

(Mr. BEAUPREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEAUPREZ. Mr. Speaker, it has been 6 months since President Bush signed the historic Medicare prescription drug bill into law, and although the ink is hardly dry, there has been a steady campaign of misinformation by our colleagues on the other side of the aisle.

They say that these cards will not work, that they are too confusing, that they will not actually save seniors money. Mr. Speaker, the verdict is in. Medicare's new drug discount cards will save seniors money. In many instances, seniors will save hundreds, if not thousands of dollars.

For example, a senior living in Wheat Ridge, Colorado, my district, who takes three commonly prescribed drugs for seniors, Zocor, Nexium, and Fosamax, can save $1,365 per year on their prescription drugs. I have done the math. That is money you can take to the bank, pay the rent or give to the grandkids.

The false accusations and scare tactics used by the political opponents of the prescription drug cards reminds me of something my mother used to say, ''If ifs and buts were candy and nuts, we would all have a merry Christmas.''

Well, Mr. Speaker, these seniors do not deserve to be lied to. They deserve the truth and they deserve a prescription drug card that will save them money.

LOAD THE WAGON

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, as I listen to the retorts from the other side, I think they must have adopted that great Republican philosophy that has kind of come back here recently, ''Do not worry about the mule going blind, just load the wagon.'' And that sure is what we are doing right now: loading the wagon for our children and grandchildren.

I hear them talking about drug cards. You just call that 800 number and see what happens. Nothing. It is just like the drug card. You get nothing. It is another way to trick people.

We are going to be asked this week to raise the debt ceiling again, by $700 billion, and to put our children again deeper and deeper and deeper in debt. It is insane to continue to do this to the next generations. If we are doing so frazzling good, then how come we are broke? I just do not understand that.

I hear them get up here every day and talk about how good things are. It is time to do the right thing.

MEDICARE CARD PROVIDES GREAT SAVINGS

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, seniors throughout West Virginia are learning about potential savings on their prescriptions because of recent reforms to Medicare. No matter what critics may say, it is very easy to find out information about the new prescription drug card. Just ask Ann Brown, one of my constituents.

I worked with Ann. We went on line together. And she was able to see very easily what her savings would be by going onto the Medicare.gov website.

But Ann is not alone. A senior living in Charleston, West Virginia in a 25304 zip code who takes Fosamax for osteoporosis, Zocor for cholesterol, and Nexium for acid reflux can save $170 a month by using a Medicare-endorsed cards, which is a savings of over $2,000 a year. That is a real savings.

Why are they saving? Because the competition and buying power of over 40 million seniors across the country is driving down the cost of prescriptions.

Beginning on June 1, seniors will begin to realize these significant savings, and through the Medicare-endorsed prescription drug card, they will see that this benefit is significant, meaningful and hits the bottom line.

WE NEED A POLICY CHANGE

(Mr. HINCHEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINCHEY. Mr. Speaker, when the national Republican Party took us to war in Iraq, the average price of gasoline across the country was $1.40 cents a gallon, and we were told that the cost of the war in Iraq would be negligible because it would be paid for by the oil in Iraq.

Now, 14 months later, the price of gasoline in America is more than $2 a gallon and the war in Iraq is costing us $200 billion. The Republican energy plan is to increase our dependence on foreign oil. Their plan for Iraq is more of the same.

With, now, almost 800 American servicemen and -women dead, 4,000 injured, it is quite obvious we need a different policy and a different leadership. It is time for a change.

PRESCRIPTION DRUG CARD A BENEFIT

(Mr. BROWN of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of South Carolina. On May 3, 2004, constituents of the First Congressional District of South Carolina began signing up for their new Medicare discount card. The enrollment fee for the discount card will range from zero to $30 per eligible person.

The discount card will save the seniors and disabled Medicare beneficiaries of my district between 10 and 25 percent off the retail price of most drugs. In addition to the discounts, seniors whose income is below $12,569 for individuals and $16,862 for married couples may qualify for an additional $600 credit to cover the full cost of their prescription.

Military retirees can now enroll in Medicare Part B without a late enrollment penalty through December 31, 2004.

Many seniors and disabled Medicare recipients have been waiting a long time for Medicare prescription drug coverage. I am proud that this Congress has answered their call.

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This discount card is just the beginning of more health care options and a greater quality of life for our seniors.

SECRETARY OF DEFENSE SHOULD HOLD HIMSELF ACCOUNTABLE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this morning one of the military personnel whose actions were considered part of the horrific acts in the Iraqi prison stands for his court-martial. The words offered were a deep apology as members of his community indicated his service to his community, the kind of human being he was and to them still remains.

The reason why I rise is because his indictment and court-martial today does not in any way take away the ultimate responsibility all the way to the Secretary of Defense. Nothing I have heard from the Secretary of Defense commends me to believe that he should not go, and he frankly should hold himself accountable for the lack of procedures and lack of training and the lack of training given to these enlisted National Guard and others who came there without training, without resources, despite the fact that we all should know right from wrong.

Today, with the Defense authorization bill, nothing in the bill speaks to this issue; and this bill is wracked with problems because it does not address the tragedy in Iraq.

WE ARE BETTER OFF NOW THAN FOUR YEARS AGO

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, it really is a very good question posed frequently on the House floor today, Are we better off today than we were 4 years ago? Let us think.

Four years ago, we had a morally disgraced President in the United States of America in the Oval Office. Today we have a man of integrity, of virtue, of principle, of purpose.

Four years ago, the terrorists planned their attacks against America and our allies. Today, America attacks the terrorists while they cower in the mountains of Pakistan.

Four years ago, Saddam Hussein amassed weapons of mass destruction, the Taliban was in power, and Libya had a WMD program. Today, the Taliban is gone. Saddam Hussein is in a cell. We have found pieces of his WMDs, and Libya has ended its program.

Four years ago, the Clinton recession took hold. Today, last month, 300,000 new jobs.

Four years ago, partial birth abortion was legal in America. Today, that moral horror has ended.

We are better off today than we were 4 years ago.

PEOPLE IN THE 32ND CONGRESSIONAL DISTRICT ARE NOT BETTER OFF THAN FOUR YEARS AGO

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, I ask, Are we better off now than we were 4 years ago? Unfortunately, for people that I represent in the 32nd Congressional District, including the San Gabriel Valley in East Los Angeles, it is a resounding ''no.''

Nearly 20,000 people have lost jobs in my district. Unemployment has hovered from 9 to 10 percent for 3 chronic years. Thirty-three percent of the people I represent have no health insurance, and a good number of those people are young children under the age of six.

Yet the House Republican leadership continues to push for wealthy families' tax breaks.

This week, the House will vote on a bill that would provide new tax breaks to rich families earning over $309,000 a year. Most of the people in my district do not make that much. They actually make anywhere around 20 and $10,000 a year. People making $10,000 a year would get nothing in this tax break, $150 at the most, compared to those at the very wealthy end who will get more money.

We need to do better, and our folks are not better off now. Four years ago they were.

LAW ENFORCEMENT AGENCIES ACT TO STAMP OUT PEER-TO-PEER CHILD PORN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, on Friday several Federal agencies announced a national law enforcement initiative aimed at combating the growing volume of illegal child pornography distributed through peer-to-peer file trading networks.

Since last fall, the effort has resulted in hundreds of searches nationwide, the identification of thousands of computers used to traffic in child pornography, and the arrest of more than 65 individuals.

This action should be commended and further action encouraged, but Friday's announcement is a disturbing confirmation that peer-to-peer programs are being manipulated. They are becoming an ever-more dangerous platform used by child predators, some convicted child molesters, to attack kids.

Parents need the ability to protect their kids before they are harmed by cyberpredators using peer-to-peer software. H.R. 2885 would give parents the tools and help parents prevent this from happening in the first place. I urge support.

DISCOUNT DRUG CARD IS A FARCE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I listened to my colleagues on the Republican side talk about the discount drug card, so-called, that goes into effect June 1. It is such a farce.

First of all, there is no drug benefit. We all know that. They have postponed that to sometime 2 years from now, in 2006, when you will actually have to put out more money than the benefit you would get, so nobody would sign up for it anyway. But what a farce these cards are.

In my district in New Jersey, you can already get most of these cards. You do not even need to go through the Federal Government.

In addition to that, if you look on this Web site and it shows you that there is a lower price, well, if you look and compare with other Internet sites, the prices are usually lower in other Internet sites. You do not even need the drug card.

In addition to that, the price can change. Whatever price is on that Web site, a week later they can change the price and simply raise it.

In addition, my constituents have been complaining about how they go to a particular pharmacy, they will not even take the card.

I have never seen so much chaos. Seniors are disgusted by this proposal. It is just a bureaucratic nightmare. It gives them no discount whatsoever and no benefit.

REGULATORY BURDEN ON SMALL BUSINESSES

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Mr. Speaker, as a former small businessman, I rise today in support of Republican efforts this week to reduce the regulatory burden on small businesses, the job engine of this country.

I know firsthand that the Federal regulatory burden strangles small business in America and keeps American-owned businesses from creating more jobs. In the year 2000, the estimated total regulatory burden in America was a job-crushing $843 billion. Along with high rates of taxation, which Democrats want to raise even further, nothing stifles job creation in America like the heavy hand of bureaucratic regulation.

Small businesses that employ fewer than 20 employees pay almost $7,000 a year in regulatory costs per employee. Instead of using these funds to create new jobs, pay higher salaries or fund new or expanded health care benefits, small business owners are forced to pay to comply with too many inflexible and Draconian Federal regulations.

Democrats are working hard to make bureaucrats more powerful. Mr. Speaker, Republicans are working hard to make American companies more competitive.

CALLING FOR RESIGNATION OF SECRETARY RUMSFELD

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, I regret to come here this morning to again call for the resignation of the Secretary of Defense, Donald Rumsfeld. The pictures, the videos that continue of our troops humiliating prisoners in Abu Ghraib and the acts of retaliation by Iraqi militants, the graphic accounts of sexual and physical abuse that go on and on and on, this is not about the failure of some rogue elements in the military. Quite the contrary.

It is a part of the total failure of leadership at our highest levels, and I refer my colleagues to The New Yorker magazine article by the distinguished investigative journalist Seymour Hersh.

MEDICARE PRESCRIPTION DRUGS

(Mr. ROGERS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS of Alabama. Mr. Speaker, relief from skyrocketing prescription drug prices is finally on its way.

Beginning in June, Alabama seniors previously without prescription drug coverage should begin to see savings of between 10 and 25 percent on their medications. For example, seniors who previously paid $100 per month for one prescription could now pay as little as $75 per month under this new 100 percent voluntary plan. These same seniors could now see savings of up to $300 per year just on this one medication; and for low-income seniors, even more help is on the way.

Thanks to a $600-per-month credit, 21,400 seniors in my congressional district should see an additional assistance with their drug bills. What is more, Alabama seniors will soon be eligible for important new features like diabetes screening and a free welcome-to-Medicare physical.

The legislation makes important new investments in our rural hospitals and clinics as well. These investments will help improve the health for all of our seniors, as well as all of our families and children.

TIME TO HELP SENIORS FIGURE OUT WHAT BENEFIT IS BEST FOR THEM

(Mrs. WILSON of New Mexico asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. WILSON of New Mexico. Mr. Speaker, on the first day that seniors could sign up for prescription drug cards, the discount cards, I went to the Barelas Senior Center, and I sat down at one of the tables at lunchtime and chatted with a little lady and started talking about this new card that would be available.

She say, oh, I already know; I talked to AARP and I already have my card. She pulled it out of her wallet and she showed me, and it had the Medicare sign on it. She said, I asked the lady and I tried to use it, and I did on Saturday, and they let me use it, and I saved $7.

It is not too hard for people to understand what these prescription drug cards will do for them; and when I talked to more people at the Barelas Senior Center, they were very interested in the $600 that can be added to that debit-like card to help them with the cost of their drugs.

It is time to put aside the bickering and help seniors figure out which benefit is the best for them so that they can afford their prescription drugs.

BETTER HEARING AND SPEECH MONTH

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute.)

Mr. RYUN of Kansas. Mr. Speaker, I rise today to recognize the month of May as Better Hearing and Speech Month.

I am one of 2 million Americans who have experienced a hearing loss personally, but my hearing loss was the result of a birth defect as an illness that took place early in my life, and there are many who need help as a result of this.

Today, we are exposed to harmful levels of toxic noise in our environment and must be aware of these harmful sounds and do our best to protect ourselves from them so that we can avoid problems in the future.

One-third of our seniors have hearing loss. Eighty percent of these seniors have not sought treatment, and 75 percent of those needing hearing aids do not have them.

Left untreated, hearing loss leads to isolation, depression, and dangerous situations.

I introduced the Hearing Health Accessibility Act, H.R. 2821, to give seniors direct access to audiologists under Medicare. This would provide effective care for our seniors with hearing loss because hearing aids are expensive, and most insurance companies do not cover them.

I have also introduced the Hearing Aid Assistance Tax Credit, H.R. 3103. This $500 tax credit would be available once every 5 years to children and those over 55.

I encourage my colleagues to cosponsor these initiatives.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 649 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 649

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

SEC. 2. (a) Upon adoption in the House of the conference report to accompany Senate Concurrent Resolution 95, and until a concurrent resolution on the budget for fiscal year 2005 has been adopted by the Congress—

(1) the provisions of the conference report and its joint explanatory statement shall have force and effect in the House; and

(2) for purposes of title III of the Congressional Budget Act of 1974, the conference report shall be considered adopted by the Congress.

(b) Nothing in this section may be construed to engage rule XXVII.

SEC. 3. The House being in possession of the official papers, the managers on the part of the House at the conference on the disagreeing votes of the two Houses on H.R. 2660 shall be, and they are hereby, discharged to the end that H.R. 2660 and its accompanying papers, be, and they are hereby, laid on the table.

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

□ 1045

Mr. HASTINGS of Washington. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 649 waives all points of order against the conference report to accompany S. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2005, and its

consideration. The rule provides that the conference report shall be considered read and provides 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

Section 2 of the rule provides that upon adoption in the House of the conference report, and until a concurrent resolution on the budget for fiscal year 2005 has been adopted by Congress, the provisions of the conference report and its joint explanatory statement shall have force and effect in the House.

The rule provides that for the purposes of title III of the Congressional Budget Act of 1974, the conference report shall be considered for the purposes of the House to have been adopted by the Congress. The rule provides that nothing in section 2 may be construed to engage rule XXVII.

Section 3 of the rule provides that the conferees of the House on H.R. 2660, shall be, and they are hereby, discharged and that H.R. 2660 and its accompanying papers be, and are hereby, laid upon the table.

This conference report adheres to the principal goals of the House-passed budget, Mr. Speaker, strengthening America, growing our economy, and continuing our Nation's long history as a land of opportunity. This budget provides for increased funding to help secure America's borders, defend against biological attacks, protect our critical infrastructure, and to prepare first responders. It takes a comprehensive and responsible approach to protecting our Nation, winning the war on terror, and preparing us for future security needs and challenges.

Mr. Speaker, our economy is growing. It is headed in the right direction. By avoiding tax increases and protecting the child tax credit, relief from the marriage penalty, and tax relief for lower-income workers, this budget continues the policies that are helping to grow our economy. The budget also provides for full funding of Medicare so that seniors can get help paying for their prescription drugs for the first time ever.

It also includes a $3.3 billion increase in budget authority for education to accommodate increases in programs like Pell Grants, special education, and Title I. And it provides for the full funding of No Child Left Behind.

Mr. Speaker, it helps us keep promises to our veterans by providing an additional $1.2 billion over the President's requested increase for veterans' health care.

The budget provides for these priorities and puts us on track to cut the deficit in 4 years, with deficits declining each and every year, and this is accomplished without raising taxes on the American people.

Mr. Speaker, as a member of the Committee on the Budget, I would like to congratulate the chairman of that committee, the gentleman from Iowa (Mr. NUSSLE), and the conferees for producing a budget that is focused on securing America, creating jobs, and responsibly planning for the future. I encourage, therefore, my colleagues to support both the rule, H.R. 649, and the underlying bill.

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

Mr. MCGOVERN. Mr. Speaker, I yield myself 5 minutes, and I want to thank the gentleman from Washington (Mr. HASTINGS) for yielding me the customary 30 minutes.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Mr. Speaker, since this mammoth budget was made available to Members of this House only a couple of hours ago, it is difficult to know exactly what goodies and gimmicks are hidden inside of it. We know enough, however, to know that this Republican budget is bad for the economy, bad for American working families, and bad for the future of this country.

Two months ago, the Republican leadership proposed a budget resolution that had tax cuts that were not paid for and slashed Medicaid by $2 billion. On top of that, that budget did not include any legitimate plan for bringing our country out of the skyrocketing, record deficits, deficits made worse by the policies of this President and this Republican Congress. That budget resolution passed by only three votes.

And now the Republican leadership wants the House to consider a conference report that they claim is very similar to that bill.

Mr. Speaker, that budget was bad then and it is bad now.

This conference report continues the Republican pattern of fiscal mismanagement. Contrary to their claims, this conference report is only a 1-year budget.

Now, we used to consider 10-year budgets so we could fully assess the consequences of our fiscal actions. Then the Republican leadership changed the budgets to 5 years, so they could better mask the long-term impact of their misguided policies. And now we are considering 1-year budgets. What is next, 6-month budgets? 1-week budgets? How about a budget for the next 5 minutes?

This is the worst kind of shell game. It is a gimmick, a smoke screen that the American people will see right through.

It is time the Republicans in this body face the facts. They squandered a $6 trillion surplus, turning it into an almost $3 trillion deficit. This is the most fiscally irresponsible congressional leadership and administration in the history of the United States of America, and now they are seeking to make it worse by continuing to extend tax cuts that are not paid for.

Now, my grandfather always told me, you cannot dig your way out of a hole, and that is exactly where we are today, in a fiscal hole. Extending these various tax cuts without paying for them may make for good press releases, but it is lousy fiscal policy.

And I do not know if my colleagues are aware of the inclusion of the Hastert Rule in this conference report. The Hastert Rule allows this body to raise the debt limit, also known as the national debt, without a direct vote by the Members of this House. In other words, Mr. Speaker, we busted our credit limit and we are giving ourselves an increase without even having the decency of taking responsibility for it. And guess what? We are sending the bill to our kids and our grandkids. That is wrong.

It is important for my colleagues on both sides of the aisle to know that a vote for this conference report is a vote to increase the debt. A ''yes'' vote will raise the debt over the $8 trillion level for the first time in American history. Now, I hope Members will think long and hard about what kind of future we are creating for our kids and grandkids.

I believe that we have a responsibility to vote up or down on increasing the debt. Burying this debt increase in the conference report shirks the responsibility of the Members of this House.

You know, my Republican friends always complain about protectionists, but this conference report is one of the most protectionist things I have ever seen. But instead of protecting jobs, it protects politically vulnerable Republicans from being forced to vote up or down on increasing the national debt. It protects the Republicans from having to pay for their tax cuts.

And one other thing: As if the policies in this conference report were not bad enough, the Republican leadership added a provision to this rule that closes the conference on the fiscal year 2004 Labor, HHS, and Education bill. My colleagues and many Americans may be asking themselves, is that bill not already law?

Well, the truth is, the provisions that make up the FY 2004 Labor, HHS, and Education appropriations bill were included in the omnibus appropriations bill signed into law early this year. But the conference report on that bill was never formally closed. Under the rules of the House, Members of the majority and minority can still offer motions to instruct. My good friend, the gentleman from California (Mr. GEORGE MILLER), has attempted to do just that several times over the past couple of weeks.

Now, adoption of this rule today will formally close the conference, meaning that no Member can instruct conferees on any issue. The motions to instruct by the gentleman from California have focused on the administration's overtime policies. It is clear that the Republican leadership is scared to death of talking about the Bush administration's misguided plan to take away overtime pay for millions of American workers. The purpose of this section in the rule is to muzzle the gentleman

from California (Mr. GEORGE MILLER) and any other Members who attempt to bring this important issue to the attention of the House and to the American people.

Why is this leadership so afraid of open and fair debate?

Mr. Speaker, this is a bad rule and it is a bad conference report, and I urge my colleagues to vote ''no'' on the rule.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself 1 minute to respond to a couple of points.

The gentleman correctly pointed out that within this rule there is the provision that the debt limit will be raised. I think most people in this body recognize that.

I mean, after all, we inherited 4 years ago a recession, then 9/11 happened, and we certainly had to fund the war on terror and all of those efforts, and that took more money than we had. In fact, in every budget that we considered on the floor, the other side acknowledged that we had to raise the debt limit.

So, yes, if this is passed, and if the Senate passes this conference report, the debt limit will have been raised. However, if the Senate does not act on this, then we will have another opportunity to look at that debt limit in a different manner.

I just wanted to make that clarification.

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

Mr. MCGOVERN. Mr. Speaker, I yield 6 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking Democrat on the Committee on the Budget.

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Speaker, at 6:20 a.m. this morning, this budget resolution, the conference report, so-called, was filed. At 7:15 a.m., it was before the Committee on Rules. No one outside the actual drafters of the legislation had had any time to look at its contents.

It only applies to $2.3 trillion of spending authority. Some way to run a railroad.

And now, when the bill comes before the House, it comes because the rules of the House require a 1-day layover for a rule, so that we have a little time at least and not get surprised with provisions that we did not see on quick notice. That was overturned by meeting early this morning, adjourning and meeting again and deeming 1 day to have expired. So this budget resolution comes to us under sham circumstances.

You have to ask why? Why should something of this gravity, of this importance to the fiscal policy of this country come to us under these circumstances? And there is only one answer I can give you. It will not stand scrutiny. It simply will not stand scrutiny.

The Budget Act calls for spending in major functions of the budget, about 19 all together, and it calls for revenues, and it calls for those expenditures and revenues to be taken function by function and spread out, projected out over a period of 5 years. This budget resolution has real numbers for only 1 year. It is not extended out with real numbers. It has plugged numbers, but not real numbers. For only 1 year are there real numbers.

For the first time in 20 years, we will take up today, if this rule passes, a budget resolution that does not contain a 5-year run-out of the spending levels that we are approving.

In addition, when we set out with this budget, it was recognized that there were some budget process rules we adopted in the 1990s that worked and had a profound effect on our ability to move the budget from a deficit of $290 billion to a surplus of $236 billion in the year 2000. One of those rules was the so-called PAYGO rule which says, if you want to cut taxes and you have a deficit, you have to offset the cut in taxes with an increase elsewhere, or at least with a cut in entitlement spending that is commensurate to your tax revenue cut.

That rule no longer applies because it has legislatively expired. We have tried and tried to restore that rule so that we can put some discipline, some starch into the process here in the House, and we have not succeeded because of opposition on the other side.

What we now get in this so-called budget resolution is an extension of the PAYGO bill, the PAYGO rule for 1 year that applies in one House. It will not apply here in the House of Representatives. That means all sorts of tax cuts can still originate in the House of Representatives, will not be subject to a PAYGO point of order, can be sent to the Senate; there they may be defeated on 60-vote PAYGO point of order, but otherwise we have a crippled, broken-down PAYGO rule that applies for only 1 year.

When you read this bill, this resolution, and see what little it contains, you have to ask yourself, why bring it up at all? If you are not going to comply with the Budget Act, if you are not going to give 5-year extensions, if you are not going to use real numbers, if you are not going to extend PAYGO, why bring it up at all? Well, it does a couple of things. It allows you to claim that you are doing a budget resolution without doing the single most important objective in a budget resolution, and that is laying down a plan for erasing this huge deficit we have.

□ 1100

Members should understand that if they vote for this budget resolution, they will be voting to have a deficit next year of $367 billion by the calculation of my colleagues on the other side of the aisle. That includes an offset in Social Security. If they wipe out the offset in Social Security, the total deficit would be $541 billion.

And guess what, because of deficits we have sustained every year, we are right up against the statutory ceiling for the national debt. It has to be raised and raised soon, or we will bump the ceiling again. And guess what, if Members vote for this resolution, buried under all of these plug numbers, these phony numbers, buried under them is a critically important feature and that is it will indirectly trigger an increase in the debt ceiling. At least with respect to the House of Representatives, we will be deemed to have voted for an increase in the debt ceiling of $690 billion. I am putting Members on notice of that.

So Members who vote for this resolution should know there is a critical working component of it and Members will vote to raise the debt ceiling by $690 billion to $8.1 trillion.

So in a thumbnail, here is what you will be voting for when you vote for this sham resolution: First, Members will vote to raise the deficit to $541 billion without Social Security, for $367 billion including Social Security, add $25 billion more in supplementals for defense, and we are right back up to a $400 billion deficit.

Members will not be voting for any plan in process, any solution to the deficit, but will be putting us on a path, according to the Congressional Budget Office, of accumulating, and this is their number, $5.132 trillion over the next 10 fiscal years.

That is what Members will be voting for if they vote for this resolution. It would be better that we vote down this resolution, send the conferees back to conference and tell them to do what the Budget Act requires them to do and tell them to get a handle on the deficit and put our fiscal house in order. Vote against the rule.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. GEORGE MILLER).

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, for all of the reasons mentioned by the gentleman from Massachusetts (Mr. MCGOVERN) and the gentleman from South Carolina (Mr. SPRATT), not only does this budget resolution graphically demonstrate the incompetency of the Republicans to deal with the budget of this country and the budget resolution in this House, but it does something much more sinister than that.

Buried in this resolution is the prohibition against any votes to be taken in the House of Representatives against the provisions offered by the administration, the rules that they put forth to deny millions of working people in this country the right to overtime. When these rules go into effect, if we cannot vote against them as the Senate has voted against them, when these rules go into effect, millions of Americans will be required to work overtime

in the future; they just will not get overtime pay.

That means for millions of America's families, families that use overtime that is so important to them to qualify for the mortgages on their house, to qualify to buy an automobile, to put their kids through school, they are not going to have that in their paycheck in the future because they are going to be excluded from being eligible for overtime.

Now the Senate addressed this rule, and they voted against it. They voted to change it. We fought hard against the original rule because the original rule would have excluded maybe 11 million Americans from the right to have overtime pay when they work overtime. Americans understand why they get overtime pay, because when their employer comes and says they have to work late on Thursday night or Friday night, that means they have to rearrange their child care, that means they have to rearrange their ability to spend time with their family, that may mean they have to rearrange their doctor's appointments, and you have to change your life around for the convenience of the employer. So you get overtime pay.

Now when the employer comes to the worker and says he or she has to work overtime, there will be no overtime pay. That is why this House and the Senate defeated those rules on a bipartisan basis, and the administration now has come up with a new rule. And we find out that even the new rule excludes millions of hard-working Americans from overtime pay, people struggling to hold onto a middle-class lifestyle and standard of living for their families. That is about to evaporate. That is about to evaporate because this House will not allow us, the Republican leadership will not allow us to have an up-or-down vote.

We are fighting so hard for democracy in Iraq, but we cannot have an up-or-down vote in the House of Representatives. We cannot have an up-or-down vote. We cannot have an up-or-down vote because the majority, on a bipartisan basis, will vote to overturn these rules. By a vote of 99–0, the Senate voted to change these rules and exclude from the impact of these rules, to try to save these middle-class families, computer programmers, licensed practical nurses, nurse midwives, oil and gas pipeline workers, oil and gas field workers, oil platform workers, refinery workers. Get the message here?

Millions of hard-working Americans, the Senate voted 99–0 to exclude steelworkers, shipyard workers, teachers, technicians, journalists, chefs, cooks, police officers, firefighters, fire sergeants, police sergeants, emergency medical technicians; 99 to nothing the Senate voted, that means bipartisan. That means all of the Republicans and all of the Democrats voted to protect these workers and their families. In the House of Representatives, the Republicans will not let Members have a vote on this.

We tried twice in the last week to have a vote, and they voted on a partisan straight party line to subject these workers to these rules that will cut their pay this year.

When workers are faced with outsourcing, plant closings, no wage growth, higher health care premiums, now the Republicans have decided to cut their overtime pay. Not only do they show no concern for people who are unemployed; but if you have a job, the Republican's initiative is to cut your pay. But what are they going to do, they are going to continue the cover-up because buried in this rule they have denied the ability of this House to vote on this rule.

Again, the Senate, 99–0, voted to protect construction employees, production line employees, carpenters, mechanics, plumbers, ironworkers, craftsmen, anybody earning an hourly wage because the rule does not protect hourly wage earners. It helps painters, cement masons, stationary engineers, longshoremen, utility workers, welders. Does this sound like Members' constituency? Does this sound like the people who work in our congressional districts every day? Yes, it does.

Mr. Speaker, these are the people who built America, they built the middle class; and now the Republicans are taking away their overtime. But Members will not get to have a vote on that because the Republicans are afraid of the vote. They are afraid of democracy. They are afraid of the people's House working its will so they have shut down the debate and shut down the ability to have a vote.

The Senate had a vote, and they even voted on a bipartisan basis to exclude anybody who has overtime today.

The SPEAKER pro tempore (Mr. LATHAM). The gentleman's time has expired.

Mr. GEORGE MILLER of California. So apparently the Senate can have bipartisan representation, apparently the Senate can have democracy, but this House cannot have democracy.

The SPEAKER pro tempore. The gentleman's time has expired. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

Mr. GEORGE MILLER of California. * * *

The SPEAKER pro tempore. The gentleman will suspend.

POINT OF ORDER

Mr. HASTINGS of Washington. Mr. Speaker, point of order.

The SPEAKER pro tempore. The gentleman from Washington will state his point of order.

Mr. HASTINGS of Washington. My point of order is when a Member yields time to another Member, does that Member have responsibility to abide by the time he was yielded to speak?

The SPEAKER pro tempore. The gentleman's point of order is sustained. All Members are reminded to heed the gavel.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus.

(Mr. MENENDEZ asked and was given permission to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, we would not have Members who feel they are oppressed if we had rules that permitted full and free debate in the greatest democracy in the world. We go abroad, sending our troops to promote democracy, but we cannot seem to have a modicum of comity and democracy here in the House of Representatives.

This conference report on the budget was filed this morning at 6:20 a.m., less than 5 hours ago. The Nation's budget, multi-trillion dollar budget filed 5 hours ago, and we do not even have a chance to review it.

Under the Republican leadership, this budget resolution is, and the entire budget process has become, a complete fraud on the American people. Just like the way they have covered up the cost of the Iraq war and the Medicare prescription drug bill, with this budget congressional Republicans are trying to hide not only the true costs of making the tax cuts permanent, but also the huge size of the rapidly exploding deficit.

And instead of giving us an opportunity to debate and vote separately on raising the Nation's debt limit for the third straight year by almost $700 billion this year alone, the Republicans have included that increase under the cover of all of these other shenanigans in this budget resolution.

So let us be clear so when Members come to the floor representing their constituencies, they understand a vote for this budget resolution is a vote to increase the debt ceiling of the United States to over $8 trillion. Yes, I said $8 trillion. Now, this will ensure that our tax dollars go not to shoring up Social Security and Medicare, or investing in our people, in their health care, education, or taking care of our veterans so that their widows do not get taxed, but to simply paying interest on this debt that Republicans continue to raise and just do not seem to care how far they continue to go.

Republicans talk all the time about fiscal responsibility, but by restoring the budget enforcement rules, the rules that say you have to pay for the expenditures of the Nation as you go, they do that for only 1 year, and they do that where? Not in the House. They

impose that upon the Senate. So they continue to spend wildly here in the House, have all of the tax cuts proposals in the world, keep driving us into deficit, but we have no budget enforcement rules here.

Mr. Speaker, these priorities are making the wealthy tax cuts permanent regardless of the damage that will be caused not only to the citizens of this country, but to the Nation's economic well-being. Vote ''no'' against the rule and against the resolution. It is ultimately the last opportunity to preserve America's future and the intergenerational responsibility this Republican majority has forfeited.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

(Mr. NEAL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I want to thank the gentleman for yielding me this time.

Mr. Speaker, remember that old commercial, when E.F. Hutton talks, people listen? Well, I hope no one on Wall Street is listening today, and I certainly hope that Alan Greenspan is not listening or watching because this Republican budget is $8 trillion of debt. Yes, Members heard me correctly.

If this budget passes for the third time in as many years on a Republican rule, we are not bringing down the national debt. What we did so successfully under the years of Clinton and Rubin, we are undoing during this administration's time. No, our vote today increases yet again the debt of this Nation. How we could have gone from $5 trillion in budget surpluses under Clinton-Rubin to $8 trillion in debt ought to be shocking to all.

Surpluses as far as the eye could see, we were suggesting just a few years ago. Today, $2 trillion in revenue cuts; and now 4 years later, surpluses are but a memory, and we have debt as far as the eye can see.

Well, here is the simple strategy: we will have two wars with three tax cuts. A billion dollars a week for Iraq, do not worry about it, we need a tax cut.

□ 1115

A billion dollars a month in Afghanistan. Do not worry about it. We need a tax cut.

Troops to Haiti? Let us have a tax cut.

That is government by declaration. Things are always getting better even though we do not see any evidence of that. And then we hear from the party that built its base in American history on fiscal responsibility, increased spending and cut taxes. The evidence is there for all to see.

Then we are told on this floor that they inherited a recession. Everybody in America knows they inherited the best economy in the history of America, all due, I believe, to what at that time was bipartisan relationships in this House. They are nonexistent now. These Members on the other side come to the floor day after day and insist on tax cuts while fighting two wars at the same time.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. STENHOLM).

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, a vote for this budget resolution conference report is a vote to automatically approve a $690 billion increase in the national debt. Under the Hastert rule, passage of the budget resolution conference report would deem that the House had passed separate legislation.

My friends on the other side of the aisle used to criticize this rule when the House of Representatives was under Democratic control and repealed it in 1997. But when the national debt started growing at a record pace, they reinstated it. I agreed with them when they criticized it in the past. Why have they changed?

A vote against the previous question would require the House and Senate to have a full and open debate and vote on increasing the debt limit instead of using the budget resolution to avoid a debate on increasing the debt limit. Last year the leadership slipped through a $984 billion increase in the debt limit, the largest increase in the history of our country, without an up-and-down vote. This came less than 8 months after we raised the Federal debt ceiling by a whopping $450 billion. Now the House leadership is trying to slip through another $690 billion increase in the debt ceiling without a debate.

The national debt has increased by $670 billion over the last 12 months and $1.5 trillion over the last 3 years. Approximately 70 percent of our borrowing from the public last year came from foreign investors. At the end of March, foreign investors held $1.7 trillion of our national debt. The $323 billion we spent last year for interest on our $7 trillion national debt represents a debt tax that must be paid by all future generations. Continuing to run up debt as we are doing will guarantee our children and grandchildren are overtaxed for the rest of their lives.

If my Republican colleagues honestly believe that tax cuts with borrowed money is good economic policy, they should be willing to stand up and take credit for the increase in the national debt that is necessary to pay for these tax cuts. Just like credit card spending limits serve as tools to force families to examine their household budgets, the debt limit reminds Congress and the President from time to time to reevaluate our budget policies.

Before we vote to increase our national debt by another $690 billion, Congress should sit down and figure out how to stop running up this debt rather than just bringing us a continued reinstatement of what we are doing. I would say to my friends on the other side again, I would gladly join them and will to increase the debt ceiling if they would agree to add budget enforcement rules that they supported in 1997. I hope the four Senators will stay fast in the other body that they will do those things that they said they are going to do to send this budget right back to us until we at least get serious about restoring fiscal discipline.

Put PAYGO into this and we have got a deal. But, no, I read where the majority leader said recently the only thing he cares about in the budget is making it easier to pass tax cuts and that everything else in the budget really does not matter to him. Increasing the debt limit over $8 trillion matters to me. I think it matters to a lot of other Members on both sides of the aisle. The decision on whether or not we make it harder for Congress and the President to pass legislation that puts us deeper into debt matters a great lot to me.

If cutting taxes with borrowed money is all that matters to you, then vote for this rule and vote for this budget. But if you are concerned about a national debt approaching $8 trillion, if you are concerned about deficits of several hundred billion dollars structural as far as the eye can see, vote against the rule and against this budget.

Vote against the previous question. The vote on the previous question will be a clear up-and-down vote as to whether or not we should have at least 1 hour to discuss increasing our debt ceiling, at least 1 hour in which we would have an honest discussion between both sides as to whether or not we should continue in the path that we are on believing that that is the best for our country. Vote against the previous question.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, let me just make Members painfully aware of what this rule will entail, since they have only had minutes to even acquaint themselves with the fact that it was coming before them today.

If Members vote for this rule, they will vote to make in order a budget resolution with the following consequences for our deficit and our national debt. Per the calculation in this budget resolution, the deficit for 2005 will be $367 billion. That is probably the best dated sum they can come up with. There will undoubtedly be some more defense supplementals, probably another $25 billion, before 2005 is out. That will take the deficit to $392 billion. If we take Social Security out of the calculation, as we should, we should not include it, the non-Social Security deficit, the deficit in the basic accounts of the Federal budget in 2005 if Members vote for this resolution will be $566 billion, which will necessitate another increase in the debt ceiling.

If Members vote for this resolution, they will, make no mistake about it, be

voting to raise the statutory debt ceiling by $690 billion. That is the first in a series of raises, because if you read CBO's report on the President's budget which is essentially embodied in this resolution and run that budget out over 10 years between 2005 and 2014, according to CBO, we will cumulatively incur a debt of $5.132 trillion.

Vote for this rule and you will be voting against any plan or any process to come to terms with this enormous, record-breaking deficit. There is no plan. There is no solution. Do not fool yourself in this resolution. Vote for it and you vote to tread water while the problem gets worse. You vote to kick the can down the road. If you want to deal with the deficit, deal with this debt, vote against this resolution, and send the conferees back to the conference. If you want to dodge the issue for another year while it gets worse, vote for this resolution. I would suggest we vote against it.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I will be urging Members to vote ''no'' on the previous question in order to expose a part of this budget resolution that my Republican colleagues would rather not talk about. When Members vote for this budget conference report, they will be voting to increase the statutory debt limit by almost $700 billion for the next fiscal year. An uncomfortable fact they would rather not talk about today is that this budget raises our national statutory debt limit to the highest level in our history, to more than $8 trillion. This comes on top of the fact that last year Republicans used the budget resolution to slip through a $984 billion increase in the debt limit, the largest increase in the debt limit in the history of the United States of America without an up-or-down vote in this House.

Mr. Speaker, there is an honest disagreement in this House over our Nation's fiscal priorities. Many of us think that with large deficits and the growing costs of the war in Iraq, we need to rethink our budget priorities and figure out how to make our revenues match up better with our spending needs. My Republican colleagues do not seem to think there is a problem. They think it is just fine to continue on with the spending and the tax policies that have led us into this current fiscal mess. They seem to think it is fine to keep building up our national debt and leave it to our kids and our grandkids to figure out how to pay for it.

I would say to my Republican colleagues, if they honestly believe that tax cuts with borrowed money is good economic policy, they should be willing to stand up in this House and vote to increase the national debt to pay for their tax cuts instead of relying on undercover parliamentary tricks. Republicans used to criticize Democrats for using House rules to slip through increases in the national debt without a separate vote. That is exactly what they are doing here today. If they believe in the fiscal policies that are sending the national debt through the roof, they should be willing to stand up on the floor of this House and vote for them.

I want to emphasize that a ''no'' vote will not stop the House from taking up the budget conference report. All it does is require Republicans to take responsibility for a fiscal policy that by the end of this year will cost our kids and our grandkids $8 trillion.

I ask unanimous consent, Mr. Speaker, to insert the text of the amendment immediately prior to the vote on the previous question.

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

There was no objection.

Mr. MCGOVERN. Again I would urge a ''no'' vote on the previous question.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important document. It is an important document because this sets the parameters of congressional spending to fund the government for 2005. We have heard a great deal from the other side in this debate about the debt limit. I addressed that earlier. I acknowledge that because we inherited a recession 4 years ago and we were attacked by terrorists and now we are engaged in an international war on terrorism, yes, we have spent more than we have taken in, and we do have to address this issue of raising the debt limit. But if we do not pass a budget resolution, that means we will not have any discipline on the appropriation process as we go through appropriating dollars for fiscal year 2005. That means if we have no discipline that the debt limit will increase higher because that is the way this body has always worked. Passing this budget is very important to put that discipline in place.

I would also make the observation, as I made earlier, every budget substitute amendment that was presented earlier when we were debating the House version of the budget, every one of those budgets acknowledged that we were going to have to address raising the debt limit in the future. Every one of them. They had it in different ways, different opportunities. Nevertheless, everyone acknowledged the fact that we have to address the debt limit problem.

Finally, Mr. Speaker, let me just suggest this, and I have learned this in the time that you and I have been here in this body. We will go through the appropriation process one way or the other. I think it is better to have the discipline of having a budget. But if we do not have the discipline of having a budget agreed to by both Houses, I suspect that what we will see when we go through the appropriation process from the other side, we will see, continually, amendments offered to raise more spending, which, of course, if it followed what they would be suggesting, we will have to raise the debt limit even higher. Sometimes I wonder what the debate is when I hear their rhetoric as we go through this process.

I would urge my colleagues to vote for the previous question, vote for the rule and the underlying resolution.

The material previously referred to by Mr. MCGOVERN is as follows:

PREVIOUS QUESTION FOR H. RES. 649

H. CON. RES. 95, THE CONFERENCE REPORT ON THE BUDGET 2004

AMENDMENT TO H. RES. 649 OFFERED BY REPRESENTATIVE MCGOVERN

At the end of the resolution, add the following:

SEC. 4. Upon the adoption of this resolution rule XXVII shall not apply to the conference report to accompany S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

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

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Mr. MCGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 648 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 648

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. After general debate the bill shall be considered for amendment under the five-minute rule.

SEC. 2. (a) It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived.

(b) No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 3 of this resolution.

(c) Each amendment printed in the report of the Committee on Rules shall be considered only in the order printed in the report (except as specified in section 4 of this resolution), may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Each amendment printed in the report shall be debatable for 10 minutes (unless otherwise specified in the report) equally divided and controlled by the proponent and an opponent and shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment).

(d) All points of order against amendments printed in the report of the Committee on Rules or amendments en bloc described in section 3 of this resolution are waived.

SEC. 3. It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report of the Committee on Rules accompanying this resolution not earlier disposed of. Amendments en bloc offered pursuant to this section shall be considered as read, shall be debatable for 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 4. The Chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report of the Committee on Rules accompanying this resolution out of the order printed, but not sooner than one hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

SEC. 5. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1130

The SPEAKER pro tempore (Mr. LATHAM). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Yesterday, the Committee on Rules met and granted a structured rule for H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005. The rule provides for 2 hours of general debate equally divided between the chairman and ranking minority member of the Committee on Armed Services. The rule waives all points of order against consideration of the bill. Finally, the rule allows that the Chairman of the Committee of the Whole may recognize for consideration any amendment printed in the report of the Committee on Rules out of the order printed, but not sooner than 1 hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

H.R. 4200 comes at a particularly crucial time for our Nation's Armed Forces. The Iraqi conflict and our continuing war on terrorism have brought a renewed and proper focus to national defense. This legislation addresses the needs of a Nation at war on multiple fronts. It contains $422.2 billion for the Department of Defense, DOD, and the national security programs of the Department of Energy, DOE. It also provides an additional $25 billion in emergency budget authority to partially cover the projected costs of continuing operations in Iraq and Afghanistan.

The primary focus of this legislation is protecting our troops on the battlefield. Our men and women in uniform depend on having the necessary systems and equipment to be successful in accomplishing their mission. Many of us have been concerned about the lack of armor available for our Humvees and other trucks. This bill addresses that concern by providing $829.6 million for production of up-armored Humvees. This improved ballistic Humvee will protect our soldiers from anti-personnel, armor-piercing munitions and improvised explosive devices. These are most commonly referred to as IEDs when we hear news reports.

It also provides $358.2 million for vehicle add-on armor kits for the Army's truck fleet. Most importantly, it gives the military new authorities to speed critical weapons and equipment to the troops in the battlefield.

In the near future, the outcome of our war against terror depends on the courage of our personnel who are on the front lines. We owe so much to our men and women in uniform, and their success in Iraq and Afghanistan is a testimony to their bravery, training, and equipment and their commitment to defend our freedoms. It is the means by which we meet our commitment to provide them a decent quality of life with an across-the-board 3.5 percent pay increase for military personnel.

We need pay to sustain the commitment and professionalism of America's all-volunteer armed services and the families that support them. It increases the limit on hardship duty pay from $300 to $750 per month. It makes permanent the increased rate for imminent danger pay from $150 to $225 a month and more than doubles the rate for the family separation allowance from $100 to $250 per month.

Our soldiers also need to know that while they are deployed, we are praying for them and their safe return. I was told by a soldier in my district that the most important thing to a soldier who is serving overseas was knowing that their family is being taken care of and supported and they are safe at home. If these men and women are willing to lay down their lives for us, then the least we can do for them is to pray for them and to take care of their families while they are gone.

For this purpose, I have created a Web site. It is Honoring Heroes.com. It is a one-stop-shopping resource where folks can go to learn about supporting our troops and their families at home. On the site visitors will find links and resources to help support the families of our men and women who are overseas. And as we approach Memorial Day, one can also find on the Web site a list of those who have given the ultimate sacrifice during the war in Iraq. We must always remember them.

I commend the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), the ranking member, for crafting this legislation that will really, truly strengthen America's military. It proposes the largest increase in military end strength in decades by increasing the active duty Army by 30,000 personnel and the Marine Corps by 9,000.

Even before Operation Iraqi Freedom, the global war on terrorism, and the commitment to homeland security, the Armed Forces had insufficient manpower for existing wartime and peacetime requirements.

Now more than anytime in our Nation's history, we are relying on these men and women who so faithfully serve our country in the National Guard. H.R. 4200 contains language that will help us to continue to provide strong support for our National Guard.

In my State of North Carolina, universities and community organizations will be coming together to help develop a comprehensive program to effectively support these soldiers. The bill recognizes the importance of this program and provides language to help integrate the National Program for Citizen Soldier support with the Defense Department's ongoing effort to support our men and women in uniform.

The bill also recognizes the importance of our Nation's continued development of advanced weaponry and technology. Included in this bill is the support of further exploration of the use of lithium batteries on the battlefield.

Finding a safe, cost-effective, and portable energy source for our men and women in the Armed Forces should be a top priority of the Department of Defense. I am pleased to see this year's bill addresses the need for our military to develop new and powerful alternative energy sources.

However, there is one amendment the Committee on Rules made in order that I strongly oppose, the Davis of California amendment. It would allow abortions on our military bases overseas. Military treatment centers, which are dedicated to healing and nurturing life, should not be forced to facilitate the taking of the most innocent human life, the child in the womb. For the past 7 years, the House has voted to keep abortion on demand out of military medical facilities, and I urge my colleagues to stay on this course and vote against this amendment.

That said, this is a fair rule. So let us pass the rule and pass the underlying defense authorization bill. At the end of the day, we will be making our homeland safer and we will be supporting our sons and daughters who are serving us in the military. We will be preparing for war, thereby ensuring victory. And at this crucial time in our history, this bill is most important.

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

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, the annual defense authorization bill is always one of the most important bills this Congress considers. Having spent my last 25 years in Congress working hard to ensure a strong national defense, it is a bill that I have always supported, and this year the defense authorization bill is more important than ever.

This past December, I spent several days in Iraq where I had the opportunity to meet with rank-and-file soldiers on the front lines and thank them personally for their distinguished service and personal sacrifice. And I was reminded of this enormous sacrifice upon my return. The cargo plane that took us out of Baghdad carried the coffins of two American soldiers who had been killed just 3 days before Christmas.

It seems like almost every night, Americans turn on the news at home and see nothing but reports of the violence in Iraq and hear comments from politicians and pundits debating decisions made here in Washington. But when I turn on NBC News or CNN or any of the other networks, I cannot help but recall the selflessness and courage that I saw in our soldiers, and the mix of pride and sorrow I felt on that flight home.

America's sons and daughters in Iraq represent our country well, but their job continues to be very difficult and very dangerous, and it will not be over anytime soon. It is clear that American troops will be based in Iraq for at least the next year and possibly longer.

And that is why the bill before us today is so important. Before anything else, the defense authorization bill is a bill to support our troops. The funding in the bill today will keep our service men and women in Iraq and around the world safe, provide them with the tools they need to fight the war on terror, and give them and their families a better quality of life.

First and foremost, we provide $25 billion in supplemental funding for the wars in Iraq and Afghanistan to ensure that our troops have everything they need to conduct the war on terror and return home to their families safely. We provide over $1 billion for armored Humvees and body armor. We help ensure the strength of our military by adding 39,000 more Army and Marine Corps troops.

We make sure that our troops experience a good quality of life by giving them a 3.5 percent pay raise, and we help ensure that all of our fighting men and women receive health care by expanding TRICARE coverage to Reservists and their dependents.

The bill also helps those who have served our country so honorably over the years by making sure that those who are left behind when a soldier falls receive the full benefits that they deserve through the Survivor Benefit Plan.

And while there are a great many provisions here we can take pride in, Mr. Speaker, the bill before us today is by no means perfect. There remain a number of serious issues that we must resolve.

This morning, in the Committee on Rules, my colleagues and I tried to offer an amendment to the rule which would have more than doubled the amount authorized for the wars in Iraq and Afghanistan in the supplemental. Similarly, we tried to provide $414 million to provide fair pay and benefits for our troops.

There are a great many Members who support these provisions, Mr. Speaker. They have broad support throughout the House, but they were, like dozens of other important amendments offered in the Committee on Rules, denied a vote on the floor by the Republican leadership. That is a shame, Mr. Speaker, because we all want what is best for our troops.

Because this House was denied the opportunity to consider a great many important amendments, I will be voting ''no'' on today's rule. I will also be urging a ''no'' vote on the previous question so that we may consider one of the amendments that was denied, the amendment of the gentleman from South Carolina (Mr. SPRATT) to provide fair pay and benefits for the troops.

That said, despite what happened at the Committee on Rules this morning, I stand in strong support of the underlying bill and our troops. There has never been any doubt that this House, this Nation, and its people stand 100 percent behind our men and women in uniform, fighting to secure peace the world over.

I hope we can soon continue the discussion on how best to provide for our service men and women and keep our Nation safe. And although I will be voting against the rule today, I will be voting for the underlying bill. It is the right thing to do, and I urge my colleagues to join me in voting ''yes'' on the authorization bill today.

I only wish that the majority leadership, in the spirit of bipartisanship that normally surrounds defense measures, had permitted some very important amendments to be offered. And we will be hearing from some of my colleagues in the rest of the debate on this rule about how strongly they feel about their rights being denied here on the floor today.

□ 1145

When we are trying to promote our military and trying to do the right thing around the world, we should promote democracy here on the floor of the House and not stifle it.

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

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me the time.

Mr. Speaker, I rise in strong support of this rule for the defense authorization bill. In total, this rule provides 9½ hours of debate on a number of key issues affecting our military and our national defense. The underlying legislation, H.R. 4200, passed the Committee on Armed Services by a vote of 60 to 0, and it meets the challenges of a Nation whose soldiers are at work in Afghanistan, Iraq, and across the globe in the fight against terror.

Following almost 5 hours of hearings yesterday in the Committee on Rules, we have provided the opportunity for further debate by making in order 28 amendments, including 10 Democrat amendments, 15 Republican amendments, and three bipartisan.

This is a fair and traditional rule for a DoD authorization bill that will permit the House to support our Nation's men and women in uniform and ensure that our defense capabilities remain second to none while having excellent debate later today on a wide array of amendments.

Mr. Speaker, this important bill falls well in line with what the Founders envisioned when they crafted article I, section 8 of the U.S. Constitution, which states that Congress shall have the power to ''raise and support Armies,'' as well as to ''provide and maintain a Navy.''

Mr. Speaker, on September 11, 2001, our Nation bore witness to one of the most horrific crimes in history. Today, our Nation's servicemen and -women are fighting for freedom in the civilized

world on multiple fronts across the globe. Our commitment to these ideals depends on our military and our military personnel, and this bill is a statement that we will continue to defend freedom and ensure that our homeland remains safe.

First, this legislation provides the funding needed to continue the U.S. military's transition into the 21st century. H.R. 4200 authorizes nearly $2 billion for the U.S. Army to procure weapons-tracked combat vehicles; $10 billion for the U.S. Navy for shipbuilding and conversion; and over $13.5 billion for the U.S. Air force to procure additional aircraft. The authorization for these and other programs will help ensure that the U.S. military remains the most efficient, most lethal, and most effective fighting force in the world.

But, Mr. Speaker, we cannot possibly hope to maintain the level of excellence obtained by the U.S. military without the achievements of the men and women who proudly wear the uniform. I am continually impressed by the resolve, patriotism, and commitment exhibited by these heroes day in and day out. As such, this Congress must work to reinforce this strength, and H.R. 4200 makes good progress towards that end.

I am pleased that the underlying legislation contains a 3.5 percent pay increase in base pay for military personnel. H.R. 4200 also recommends the elimination of out-of-pocket expenses military personnel must contribute toward housing costs. Both of these provisions will not only help ease the burden placed on military personnel and their families but should also help to ensure that the U.S. military is able to retain these highly trained personnel.

Mr. Speaker, it is undoubtedly true that not everyone will be satisfied with this measure. What we must remember, however, is that the primary responsibility of this government is to provide for the common defense of this country. As one of the Founders put it, wise and free people direct their attentions first to their own safety.

As such, I urge my colleagues to support both this rule and the underlying measure, H.R. 4200, to not only uphold the obligations of the Congress and the Federal Government, but also to show our men and women in uniform that their service to this Nation and their fellow Americans does not now nor will it ever go unappreciated.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services, who was denied the opportunity to offer key amendments.

(Mr. SKELTON asked and was given permission to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, I thank my friend from Texas for yielding me time.

Mr. Speaker, I rise in strong opposition to the rule; I rise in strong opposition to the previous question.

Mr. Speaker, I am sorely distressed over this rule. The base bill that our Committee on Armed Services worked on and put out is a pretty good bill. We have done some good things, particularly for the troops. But I raise the question as to why in the world the Committee on Rules, at my request to have 6 hours of debate, 3 hours on each side on a $422 billion bill, has limited it to 2 hours, 1 hour on each side. Is the Committee on Rules majority afraid of debate?

Specifically, there are several issues we need to debate. This is the crucible of democracy; young men, young women in uniform, all across this world, all across the globe, standing firm for democracy and decency and what we stand for. And we are limited in our debate time?

Mr. Speaker, I am sorry that they limit us. We should discuss the cost of the war in Iraq; the cost of the war in Afghanistan; the role of contractors. This is a serious role that has arisen recently and that needs to be discussed on the floor of this House.

The issue of the Iraqi prisoner detainee abuse, which has flooded the world news media, needs to be talked about from both sides of the aisle; and the transition to a new government in Iraq, on June 30, which we really have no idea what it will look like, needs a discussion and a thorough airing here in this Chamber. These are important issues, and we are limited to 1 hour on each side to discuss them.

I am sorry that has happened. Two hours is not nearly enough. It does the young men and young women in uniform a disservice, it does democracy in this Chamber a disservice.

Mr. Speaker, I also pointed out four amendments that I wished to be made in order, and only one was approved by the Committee on Rules. I studied the amendments; and, as ranking member of the Committee on Armed Services, I thought I spoke with some knowledge.

These are serious, thoughtful amendments which, I believe, deserve full and extended debate on the House floor. These issue areas and the amendments to which I refer are:

Sanchez amendment to modify the Uniform Code of Military Justice to bring it into conformity with modern criminal sexual assault statutes;

Cooper/Ryan amendment authorizing a total of $67 billion for operations in Iraq and Afghanistan;

Spratt amendment on increasing pay for our troops and their quality of life by making targeted cuts in missile defense programs; and

Tauscher amendment on Department of Energy nuclear weapons policy.

Only one of these, the Tauscher amendment, was made in order. This is simply unacceptable. These are serious amendments that try to deal responsibly with complex issues. They reflect broadly held views by members on this side. A meaningful debate on these issues would reflect well on the House and would serve the country well. The failure to make them in order is disappointing, unfair and reflects badly on the House. It is an outrage!

If the previous question is defeated, the House will have the chance to at least partially redress this wrong by considering the Spratt amendment, which will directly benefit the troops.

I strongly urge my colleagues to defeat the previous question and to vote "no" on the rule.

Mrs. MYRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I rise to support the 2005 National Defense Authorization Act and the rule. This bill contains tremendous support for our military. Among those items that I think are particularly noteworthy is increased housing benefits for our troops; a pay raise, including an increased pay raise for hardship duty; additional health care benefits for Reservists; additional armor for Humvees; body armor; better survivor benefits; an increase of 30,000 troops, which I think at the present time we very badly need; and the most efficient weapons system available.

A few months ago, Mr. Speaker, I visited Landstuhl Hospital in Germany, Afghanistan, Kuwait, Iraq, and talked to an awful lot of our troops over there; and I was singularly impressed with the quality, the commitment, and the expertise of the troops that I met. This was one week before Christmas, and yet I did not hear one complaint from any one of the soldiers that I talked to. They seemed to have a tremendously strong sense of mission.

A young captain from my home State of Nebraska who had been away from his wife and infant child for 1 year made two comments that stuck with me that I think are worth repeating.

First of all, he said that it is better that we fight terrorists here in the Middle East than we fight them at home. I think that all of us realize we are not completely immune from terrorism on these shores. However, we would also have to recognize the fact that terrorism has certainly been crippled. It has had to focus its attacks primarily in the Middle East. It certainly has made the United States a safer place over the last year and a half.

Then the second comment that he made I think is particularly important. He said it is really important that the American people not lose patience, and I would say that includes Congress as well, because the captain was proud of the accomplishments that our military had accomplished in that area.

What he was pointing out, simply, was the improvement in the infrastructure; the increase in commerce in that part of the world; the improvement in health care; the fact that infants, young people, about 90 percent of them had been vaccinated in Iraq; the improvement in government, at least the potential for a representative government to be formed.

So we certainly believe that the quality of people we have over there is exceptional, they deserve our support, and this bill does that.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. SPRATT).

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Speaker, I have served here for 22 years and served all those years on the House Committee on Armed Services, and today I am the recognize second ranking Democrat on that committee; and if there is any comity left in this institution, surely I should have the right to offer one well-considered, carefully crafted, very serious amendment. That is what I proposed. That is what I offered.

I knew that the Committee on Rules had been narrowing down the debate for years and years, so I went prepared to the Committee on Rules and asked for simply one amendment.

Now, I do not stand here in personal pique because my amendment has not been made in order. Far from it. It is not that this rule shuts me out or shuts out the people I represent in South Carolina. It shuts out our troops. It shuts out our sergeants and warrant officers. It denies every trooper who goes into combat the opportunity to have $250,000 of group life insurance at Uncle Sam's expense. That is what it does.

The amendment that I proposed would take $414 million out of ballistic missile defense and move it, first of all, $300 million for targeted pay increases for noncommissioned officers, NCOs, who bear the burden of fighting, who are the backbone of our military in Iraq and Afghanistan. These personnel, grades E–5 through E–9, are the troops we need most to keep. If they vote with their feet and leave the Army, we will have a broken Army.

What I proposed is what the Quadrennial Review proposed 3 years ago, what we have voted up twice in the last 2 fiscal years, but do not in this budget, is a targeted increase for these troops.

In addition, I proposed we take 25 to $50 million and say to every soldier, sailor, airman, and Marine going into harm's way, into combat, once you draw imminent danger pay, the Government of the United States of America will pick up the premium, we will provide you with $250,000 in group life insurance, SGLI, a great idea.

It is the least we can do for these troops. After all, we did, and I think rightly, $1.4 million in average benefits for the victims of 9/11. Can we not guarantee our troops in combat at least $250,000 in light of that?

So what they have denied me with this rule is the opportunity to have a hearty, healthy debate on our priorities. Can we take a little bit out of a program that is slated to increase by $1.2 billion, take $400 million out of it and move it around, put it into a pay raise for our NCOs and our warrant officers, put it into a life insurance premium for our troops? And then take a little bit of it and deal with some problems in ballistic missile defense, which this budget, for all it does for BMD, does not do, for example to Patriot-3s. It took out a Tornado, it took out an F/A–18. We need to put more money into IFF, Identification Friend Or Foe.

□ 1200

Roadside bombs, IEDs, we need to put more money in that. Look at the Marine Corps' unfunded requirement list. You will find it at the top of their list.

These are the things that I, if I had the opportunity, would propose that we do with cuts that would not impede or in any way affect the progress of ballistic missile defense.

Give me that opportunity. Vote down the previous question. Vote down the rule. And let us have a full fair and serious debate on national defense.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in strong support of this rule. Our country is at war, Mr. Speaker, and this rule and the underlying bill reflect the needs of a country at war.

We have addressed in this bill in particular the needs of the soldier. In fact, the bill is entitled The Year of the Soldier, and to support our soldiers we have addressed issues that have to do with technology. We have addressed issues that have to do with armor, both body and vehicle. We have addressed additional needs that our Special Operations Command has, and we have addressed the need to defend ourselves in terms of chemical and biological protection.

But one of the most important provisions of the bill, Mr. Speaker, is a provision that addresses a need in terms of our military's transformation. Our committee found during a hearing on April 21, 2004, that the DOD acquisition process would not respond in an expeditious manner to the urgent force protection equipment needs of our troops in Iraq and Afghanistan. This is something that the bill seeks to change.

At the hearing, the HASC found that it required 6 months from the time a combatant commander made his request to the time that the production for such equipment commenced, 6 months from the time the combatant commander said he needed a device and the time we began to produce it; not when it got to the field, but when we began to produce it.

This provision would authorize the Secretary of Defense to publish a streamlined acquisition process for use when combatant fatalities have occurred. The combatant commander has an urgent need for equipment and the delay would cause the continuation of combat fatalities. This rapid acquisition authority will allow a rapid response to emergency combat situations.

This rapid acquisition authority would allow a rapid response to emergency combat situations, would allow a rapid response to changes in our opponents' battlefield tactics and, most important, this provision would help minimize combat fatalities.

This is a process to be used as a quick-start bridge to the normal acquisition process. The provision is limited, however, limited to $100 million per fiscal year.

Mr. FROST. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. Mr. Speaker, when a country is at war, rule number one is that the sacrifice must be shared. Congress must support our citizen soldiers who answer the call of duty, but who face ongoing financial obligations in their civilian lives. Our Reserves and our National Guard are doing a superb job, but thousands of them are suffering significant hardships due to the discrepancy between their civilian and military pay.

Abandoning them financially is unacceptable. Yet, for the second time in 2 years, the Committee on Rules has rejected my amendment which would have immediately eliminated the pay gap for Federal employees and provided significant incentive for State and municipal governments to do the same. Instead of delaying financial assistance for 1 year, as the bill we are considering proposes, my amendment would have wiped out the pay gap for Reservists and National Guardsmen immediately.

Mr. Speaker, for the soldiers who suffer from the pay gap, the proposal in the legislation we are considering is too little and too late. In a time of war, it is unconscionable to impose all of the sacrifice on one segment of society. Yet, the administration and the Republicans in this House continue to back massive tax cuts for the wealthiest, placing financial burdens on other groups, including the Reservists and members of the National Guard who are already sacrificing so much for all of us.

It is an outrage that this body is not allowed to vote, not allowed to vote on providing members of our National Guard and our Reserves some financial relief. My amendment, which would provide immediate help to the tens of thousands of Reservists and members of the National Guard, was ruled out of order. Why? Because the Republican leadership is convinced that were we to debate my amendment freely on this floor, it would pass overwhelmingly.

It is an outrage to the Reservists and members of the National Guard that we are denied that opportunity. I urge all of my colleagues to oppose this unfair, unequitable and undemocratic rule.

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman will state his inquiry.

Mr. SNYDER. Mr. Speaker, I believe under the rules, procedures and etiquette of the House, that the press is to have access to the gallery here in the House. I am concerned that the doors may be locked. I see only one person in the press gallery today.

I think people all over the country have a right to know that the press has access to the Chamber to cover the travesty of democracy and the arrogance of power that is going on here today.

I would ask the Parliamentarian and the Sergeant at Arms to be sure that the press gallery doors are unlocked so that the press might have access to these terrible proceedings wrought on the House floor by the majority.

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry. Accessibility to the House is being observed.

Mr. SNYDER. Parliamentary inquiry, Mr. Speaker. Do the rules of the House provide for the press to have access to the gallery of the House?

The SPEAKER pro tempore. The House is in open session. Anybody has access that meets the standards of security.

Mr. SNYDER. Thank you. And that was a correct parliamentary inquiry.

Mrs. MYRICK. Mr. Speaker, I would just like to note for clarification, there have been press people coming and going ever since we have been doing this rule.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. HUNTER), the distinguished chairman of this committee, who has done a phenomenal job in putting this bill together.

Mr. HUNTER. Mr. Speaker, I want to thank the gentlewoman for yielding me time.

I want to talk about this bill that was put together in the Committee on Armed Services, which was voted out with a 60 to zero vote, put together and shaped by Democrats and Republicans. I want to thank my friend, the gentleman from Missouri (Mr. SKELTON), my partner on the committee, for all the great work that he has put into it, as well as the subcommittee chairmen, ranking members and all the folks who fill those seats in the Committee on Armed Services who really care about our troops.

In keeping with that, this is the Year of the Troops. We have endeavored to focus on those troops, and in doing that, we have got this 3.5 percent pay raise across the board. We have not increased money for hazardous duty pay. We have increased money for separation pay for folks that are away from their families. And beyond that we try to give our troops the tools that they need to get the job done.

The gentlewoman has mentioned armor, up-armoring of Humvees and trucks, and munitions and surveillance, in all the things that those folks need, those 135,000-plus folks in Iraq and thousands in the Afghanistan theater who are out there fighting right now, braving enemy fire, increasingly oppressive heat, difficult living conditions. And they are doing that for us. They are doing that all as volunteers, and it is our job to give them what they need to get the job done. That is what we do in this bill.

And appended to all of the great things that we have done, and I really applaud the gentleman who just spoke on this rapid acquisition initiative for a battlefield commander. When he is taking casualties, he can say, I want a system and I want it now. And you either have a system within contract of 15 days or you explain to the people in the field or to the Congress why that is not possible. That is very important.

Troops are important. And right now we have put into this bill an additional 10,000 Army troops each year for 3 years for a total of 30,000 troops. We have also put in an additional 3,000 Marines each year for a total of 9,000 additional Marines. And for everybody that hears from their Guard and Reserve and active forces, from the members of their family who say, you know, it looks like it is another Christmas that I will not be home, having more troops helps to alleviate that pressure because the more people you have, the less time an individual has to spend in theater, on duty, in rotation. So that takes a little bit of pressure off these troops.

Additionally, I think we looked at this thing as a committee and said, having additional forces available that are not obligated in the field, that are available for deployment, are insurance for our country. And we decided as a matter of policy that we wanted to have more insurance. So we have those additional forces.

Now, additional to the base bill this year, this $422 billion bill, we have got another thing, and that is this $25 billion authorization for a supplemental that we have bolted onto our bill. And we put that money in because we want to make sure we have plenty of money for operations in the closing months of this year, plenty of money for surveillance.

We have lots of surveillance platforms in here. We want to be able to see the bad guys when they are putting out those IEDs or putting up ambushes or other things. And we want to leverage our technology to do that so we have that additional surveillance money.

We have additional munitions money to put in so the troops have everything from the large rounds right down to M–16 ammunition, and we put in a lot of money for that.

Additionally, we have given the money to the Chief of Staff of the Army, to General Schumacher, to reshape his forces. And I would commend any Member of the House, and all of our members of the Committee on Armed Services have seen this, to have a sit-down with General Schumacher and listen to his blueprint for reshaping our force. He feels, under his blueprint, he can increase the Army from 33 active brigades to an additional three this year, three more next year and four more the next year. And we are helping him do that by putting in this supplemental for equipment for this reset.

I notice the ranking member had stood up to speak, and I just want to recognize him if he had anything to say. Then I know also the gentleman from South Carolina also had a position.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding.

I just learned I can address the Chamber an additional 2 minutes a few minutes from now.

Let me, say on a positive side, I think it is a good thing we are doing, adding to the end strength of the troops. I am not sure if America fully knows, the understanding that we have some 4,000 coming out of Korea toward the Iraqi situation.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, every fair-minded Member of this House should be outraged at the rule we are being forced to debate under today. Two hours, a giant piece of legislation will be rammed through this House in 2 hours, less than 15 seconds per Member of this body; less than 15 seconds for each 700,000 group of constituents that we have the honor of representing; less than 15 seconds each to talk about over one-half of all the domestic discretionary spending of the United States of America; less than 15 seconds per Member to talk about the defense budget of the United States at a time of war; less than 15 seconds per Member to talk about a defense budget that is larger than every other defense budget in the world put together; less than 15 seconds per Member to talk about the needs of our troops in the field while they are fighting a war.

□ 1215

There will be no real debate allowed under this rule for properly funding our troops. It is true, thank goodness, that finally under pressure that the Republicans have put in $25 billion to fund our troops in kind of an emergency supplemental, but the truth is our troops need more money than that. They are running out of money now. Let me repeat, our troops in Iraq and Afghanistan are running out of money now.

The Pentagon is already having to raid every cookie jar in the building to try to fund their needs. We should do better by our troops. We should fully fund their needs. We should tell the truth to the American people about the real cost of this war, which is a lot

closer to $200 billion than any other number.

I had an amendment that we wanted to debate and discuss that would have put in $67 billion for our troops so that funding would not just start in October, as intended by the Republican majority and, as they put it, end in December and January. They are fully funding about 3 or 4 months of this war to disguise the true cost of it. We should fund the needs of our troops for an entire year, and we should be proud of it.

With all the life-threatening risks that our men and women face in uniform overseas, financial uncertainties should not be an additional risk; yet that is what is being imposed on them by this body with this simplistic rule which is 2 hours of debate, less than 15 seconds per Member to talk about the true needs of our troops.

The gentlewoman from North Carolina, unfortunately, was absent from the Committee on Rules when I testified. There were only two Members there. They are hurrying through this so quickly in a rubber-stamp fashion that we are not able to properly discuss one of the most important bills of the year and perhaps of the decade.

Mr. Speaker, our committee has been rated by CSIS, the Center For Strategic and International Studies, as one of the worst Committee on the Armed Services in decades. Why? This is one of the reasons, inability to do our job correctly.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

I would just like to respond to the gentleman that I am not sure when he testified, but other than having a lunch appointment and voting on the floor, I was in that hearing the whole time; and I would also like to say, there is a total of 9½ hours of debate on this bill. It is not just 2 hours.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, the last speaker from the minority I think misrepresented the situation. This process started in January. We have been through the subcommittee process. The gentleman went through the subcommittee process, had ample time to make his arguments, went through the full committee process.

We forged a document through that process where everybody had ample time, including a debate that started at 10 o'clock in the morning last week and ended at midnight, to make our points; and following that debate, this bill was reported by a unanimous vote. So those who are crying foul today because of this rule are the same people who have worked since January to make their points, 12 hours last week to make their points, and a 9-hour debate today. It seems pretty fair to me.

Mr. FROST. Mr. Speaker, I would ask the time remaining on each side.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Texas (Mr. FROST) has 13 minutes remaining. The gentlewoman from North Carolina (Mrs. MYRICK) has 8¼ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, my friend from New Jersey makes reference to 9 hours of debate when, in truth, in fact, we have 2 hours of general debate on this issue.

I recommended to the Committee on Rules four major amendments. I stated the amendments from our committee, and I do not make recommendations lightly; and when I do, I hope the Committee on Rules would take them seriously. Most important is one that deals with quality of life for the soldiers and the troops and their families.

The gentleman from South Carolina (Mr. SPRATT) had a proposed amendment that would increase pay, increase quality of life. It targeted cuts towards the missile defense program which is being boosted up by well over $1 billion. What more can be said.

The gentlewoman from California (Ms. LORETTA SANCHEZ) had a proposed amendment to modify the Uniform Code of Military Justice, bringing this law into conformity with the Federal criminal sexual assault statutes. That was passed 18 years ago by this Congress. Now there are some 18 years of appellate history that can be used, and yet that was denied.

The gentleman from Tennessee (Mr. COOPER) and the gentleman from Ohio (Mr. RYAN) had an amendment authorizing a total of $67 billion for operations in Iraq and Afghanistan, when in truth and fact, the Committee on Rules set aside a reserve sum of some $50 billion meeting the Cooper/Ryan proposal by more than half.

The gentlewoman from California (Mrs. TAUSCHER), thank goodness they allowed an amendment that she has on the Department of Energy nuclear weapons policy.

These are important amendments, important not just to the future of our country, not just important to our policy, important to those who wear the uniform, important to their families, where we are going. It is important, I think, that we vote down this rule and come back with a better one.

Mrs. MYRICK. Mr. Speaker, I reserve my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, it is unfortunate that the House Republican leadership has allowed more time to debate the renaming of post offices from the floor this year than time to debate the Defense authorization bill during a time of war. It is sad. It is sad that the muzzling of democracy continues here in the United States, even as American citizens die and try to bring democracy to Iraq.

Mr. Speaker, this rule is unfair. I would say that the bill itself has many positive things to it, and I do salute much of the bipartisan effort that went into shaping the Defense authorization bill itself. Let me discuss two specific parts of the bill, one positive and one of great concern to me.

On a positive note, the bill finally improves benefits for pensions for widows of servicemen and -women. This had been long overdue to change this unfair treatment of military widows. The sergeant's wife, for example, that served 20 years in the Army, only receiving a $7,000 a year pension. I salute the Republicans who supported it in committee, and I want to thank the veterans organizations and the 200 Democrats who joined in my petition to pressure a vote on this long overdue consideration.

Second, it is unfortunate that this bill does not take action to continue this next year the largest, most important housing improvement program in our Nation's military history; and it is really sad when we consider tomorrow the House Republican leadership will push a tax cut bill that will provide self-serving tax cuts for Members of Congress; but today, we are saying to 24,000 military families, we cannot afford to improve the housing that they live in, even if their loved one is someone serving in Iraq or Afghanistan. Self-serving tax cuts for Members of Congress being more important than improving military housing for those servicemen and -women sacrificing and serving our Nation in Iraq? It is wrong.

This rule is wrong. Vote ''no'' and let us reconsider this bill under new regulations and rules.

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. HUNTER), the chairman of the committee.

Mr. HUNTER. Mr. Speaker, I wanted to just correct my friend because he may have missed it, but we did lift the housing cap for privatization of housing. That was done pursuant to the Miller amendment in the committee. So we did two things, both the survivor benefits and the housing cap.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, if I can ask the gentleman a question, the staff of the committee has told me, and I have asked repeatedly, that it addresses the housing cap for fiscal year 2006, but does not solve the problem for 2005; and as a consequence, 24,000 military families will have their housing improvements put on hold.

Mr. HUNTER. I just say to the gentleman, it is permanent removal of the housing cap.

Mr. EDWARDS. Mr. Speaker, I thank the gentleman.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. JOHN).

Mr. JOHN. Mr. Speaker, I rise today to strongly oppose this rule.

Yesterday, in the Committee on Rules, I offered an amendment to the

defense authorization bill whose needs were proven and whose costs was fully offset, and it was sadly rejected.

The Air Force's Joint Surveillance Target Radar System, or the JSTARS, is a program vital to our Nation's security in a time of war and is crucial to the jobs of hard-working men in Louisiana. My amendment would have ensured the continuation of this program in order to build the number of planes that the military requested.

The next generation of JSTARS, the E–10A program, has been delayed twice and will not provide the needs of our military in sufficient time.

Without my amendment made in order, resources will be cut for our troops, plain and simple. Short-changing the military on their order for planes sells short this vital program and endangers valuable military support jobs in Louisiana.

The delay of the E–10A will disrupt our military industrial base and will affect our Nation's responsiveness to production needs.

The need is real, Mr. Speaker. The workforce is in place and our troops deserve the best we can provide. The JSTARS program merits funding and continuation. We will be continuing to discuss this, and it is a shame that we have not had this opportunity on the floor of the House to fully discuss this. The workers in my district deserve consideration to complete their mission, just as we have asked our troops to complete their mission.

I strongly oppose this rule.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 3½ minutes to the gentleman from Florida (Mr. GOSS), the chairman of the Permanent Select Committee on Intelligence.

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank the distinguished gentlewoman from North Carolina for her kindness in yielding me the time.

Mr. Speaker, in consideration of the fiscal year 2005 Defense Authorization Act, this comes at a benchmark moment for the United States of America, if not the world, in terms of our history.

Our Nation and our allies are engaged in a global war against terrorism, we all know that, a war that began long before September 11, 2001, and is obviously going to continue well into the future. It is a war fanatics declared on America and its friends. It is a war that we cannot avoid. It is a war that must be fought, and it is a war that will be won.

President Bush understood early on that this sustained conflict would be difficult, and he told us so; and the truth of his words becomes more evident as time goes by, and it is our job to step up and provide for the challenge.

Our Nation's brave men and women in uniform and out face danger every day, not only in countries like Iraq and Afghanistan but actually around the whole world. We have sustained casualties. The inevitability of losses in dangerous work has not deterred us, nor has it diminished, of course, our heartfelt gratitude for the sacrifices made by some of the best our Nation has to offer, some from my home State, Florida, some from my district, as they fought in service of our country, for ideals that we all believe in, ideals that will endure, will prosper, and will better the lives of fellow human beings everywhere.

These people bring credit and honor to us all. They must be remembered and cherished, and I have no doubt they will; and this legislation goes in that direction.

The legislation we consider today provides the resources needed to continue the fight that we are in. H.R. 4200 allows America's military to function at a superior level. It includes programs that look forward, anticipating needs so that they can be met quickly and with precision when and wherever future threats arise.

In addition, the Defense Authorization Act maintains the oversight ability of the Congress. The limited, but nonetheless damaging, instances of prisoner abuse at Abu Ghraib will be dealt with transparently and fairly to show the world that free societies respect civilized standards and enforce them.

As chairman of the House Permanent Select Committee on Intelligence, I appreciate that H.R. 4200 includes a strong intelligence component that ensures American war fighters on the ground or in whatever mode are provided with the best possible information; and I am most grateful to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services, for understanding this and providing for it.

Timely, accurate information is a vital weapon in the war on terrorism, both for force protection, as the gentleman from California (Mr. HUNTER) well knows, and for mission success. Yes, we can expect more violence in Iraq as the June 30 transfer of sovereignty approaches.

□ 1230

And, yes, unfortunately we can expect terrorists to target other events, including elections in free countries this year. But with the passage this year and maintaining levels of support for our military and intelligence capabilities, we can supply our soldiers and intelligence people with the resources and information they need to win.

This rule considered a lot of things. The committee got a good bill together, and I do not think there is any reason not to go forward with the debate. I urge support for the rule, I urge support for the bill, and I urge a vigorous debate on the information herein.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I want to clarify the record.

The committee dealt with the housing cap to allow improved military housing starting in fiscal year 2006, but it only adds $1 for the cap in 2005. So that means 24,452 military families will have their housing improvement plans put on hold even as their loved ones are fighting in Iraq or Afghanistan.

Thirteen military bases will have their housing programs basically frozen, even though tomorrow we are going to vote to provide a tax cut for Members of Congress.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. HUNTER), the chairman of the committee.

Mr. HUNTER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

The gentleman concurs, as I think our common ground here is that we have permanently lifted this cap, with the lift starting in 2006. However, the housing program can continue under the current cap for the time being. And it is not a certain thing that we are definitely going to run out of money.

I would just say to the gentleman that I would be happy to work with the gentleman and the Committee on the Budget to attempt to accommodate 2005 and make sure there is not a seam between 2005 and 2006.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, I understand we will hit the cap as early as this November.

Mr. HUNTER. Mr. Speaker, reclaiming my time, that is not a certain thing. So telling all the families that they absolutely will not have housing is not a certain thing at this point.

I think the gentleman and I and others can work to make sure there is not a seam between 2005 and 2006.

Mr. EDWARDS. Mr. Speaker, I thank the gentleman.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN), the ranking member on the Permanent Select Committee on Intelligence.

Ms. HARMAN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of the defense authorization bill, but strong opposition to this rule.

Let me point out, Mr. Speaker, that the rule we are considering leaves out many important amendments which many on our side had hoped to offer. I had one which would have postponed additional expenditures for a ground-based missile system in Alaska which has not met operational testing requirements, and would have put those funds into port security. My amendment reflects the views of 49 Admirals and Generals whose letter to the President is dated March 26.

In my view, as ranking member of the House Permanent Select Committee on Intelligence, the potential

damage from a radiological device coming in through our ports is a much greater risk than the risk of a missile attack from North Korea.

There are, however, some good amendments put in order, one of which I strongly support. The Davis-Sanchez-Harman amendment, which we have offered every year for the last decade, would treat military servicewomen as women in America are treated, by allowing them their constitutional right to the full range of legal reproductive health care in foreign military hospitals, provided they pay for it. Current law prohibits this and requires servicewomen who put their lives on the line on austere fronts in the war on terror to seek approval from their commanding officer in order to travel elsewhere in order to obtain an abortion, as medical facilities may be inadequate or unavailable.

I view current law as unconstitutional. I think it is ridiculous at a time when military women are performing incredible service around the world that they still are treated differently from women in America. So I urge strong support of the Davis-Sanchez-Harman amendment.

Mr. Speaker, I submit herewith for the RECORD the March 26, 2004 letter to President Bush from 49 Admirals and Generals:

49 GENERALS AND ADMIRALS CALL FOR MISSILE DEFENSE POSTPONEMENT

MARCH 26, 2004.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In December 2002, you ordered the deployment of a ground-based strategic mid-course ballistic missile defense (GMD) capability, now scheduled to become operational before the end of September 2004. You explained that its purpose is to defend our nation against rogue states that may attack us with a single or a limited number of ballistic missiles armed with weapons of mass destruction.

To meet this deployment deadline, the Pentagon has waived the operational testing requirements that are essential to determining whether or not this highly complex system of systems is effective and suitable. The Defense Department's Director of Operational Test and Evaluation stated on March 11, 2004, that operational testing is not in the plan ''for the foreseeable future.'' Moreover, the General Accounting Office pointed out in a recent report that only two of 10 critical technologies of the GMD system components have been verified as workable by adequate developmental testing.

Another important consideration is balancing the high costs of missile defense with funding allocated to other national security programs. Since President Reagan's strategic defense initiative speech in March 1983, a conservative estimate of about $130 billion, not adjusted upward for inflation, has been spent on missile defense, much of it on GMD. Your Fiscal Year 2005 budget for missile defense is $10.2 billion, with $3.7 billion allocated to GMD. Some $53 billion is programmed for missile defense over the next five years, with much more to follow. Deploying a highly complex weapons system prior to testing it adequately can increase costs significantly.

U.S. technology, already deployed, can pinpoint the source of a ballistic missile launch. It is, therefore, highly unlikely that any state would dare to attack the U.S. or allow a terrorist to do so from its territory with a missile armed with a weapon of mass destruction, thereby risking annihilation from a devastating U.S. retaliatory strike.

As you have said, Mr. President, our highest priority is to prevent terrorists from acquiring and employing weapons of mass destruction. We agree. We therefore recommend, as the militarily responsible course of action, that you postpone operational deployment of the expensive and untested GMD system and transfer the associated funding to accelerated programs to secure the multitude of facilities containing nuclear weapons and materials and to protect our ports and borders against terrorists who may attempt to smuggle weapons of mass destruction into the United States.

Signed:

Admiral William J. Crowe (USN, ret.), General Alfred G. Hansen (USAF, ret.), General Joseph P. Hoar (USMC, ret.).

Lt. General Henry E. Emerson (USA, ret.), Lt. General Robert G. Gard, Jr. (USA, ret.), Vice Admiral Carl T. Hanson (USN, ret.), Lt. General James F. Hollinsworth (USA, ret.), Lt. General Arlen D. Jameson (USAF, ret.), Lt. General Robert E. Kelley, (USAF, ret.), Lt. General John A. Kjellstrom (USA, ret.), Lt. General Dennis P. McAuliffe (USA, ret.), Lt. General Charles P. Otstott (USA, ret.), Lt. General Thomas M. Rienze (USA, ret.), Vice Admiral John J. Shanahan (USN, ret.), Lt. General Dewitt C. Smith, Jr. (USA, ret.), Lt. General Horace G. Taylor (USA, ret.), Lt. General James M. Thompson (USA, ret.), Lt. General Alexander M. Weyand (USA, ret.).

Major General Robert H. Appleby (AUS, ret.), Major General James G. Boatner (USA, ret.), Major General Jack O. Bradshaw (USA, ret.), Major General Morris J. Brady (USA, ret.), Major General William F. Burns (USA, ret.), Rear Admiral William D. Center (USN, ret.), Major General Albert B. Crawford (USA, ret.), Major General Maurice O. Edmonds (USA, ret.), Rear Admiral Robert C. Elliott, (USN, ret.), Major General John C. Faith (USA, ret.), Rear Admiral Robert H. Gormley (USN, ret.), Major General Richard B. Griffitts (USA, ret.), Rear Admiral Charles D. Grojean (USN, ret.), Major General Raymond E. Haddock (USA, ret.), Major General Jack R. Holbein, Jr. (USAF, ret.), Major General Stanley H. Hyman (USA, ret.), Major General Wayne P. Jackson (USA, ret.), Major General Frederick H. Lawson (AUS, ret.), Major General Vincent P. Luchsinger, Jr. (USAF, ret.), Major General James J. LeCleir (AUS, ret.), Major General William F. Willoughby (USAF, ret.).

Brig. General George C. Cannon, Jr. (USAF, ret.), Brig. General John J. Costa (USA, ret.), Brig. General Alvan E. Cowan (USA, ret.), Brig. General Lee Denson (USAF, ret.), Brig. General Evelyn P. Foote (USA, ret.), Brig. General Leslie R. Forney, Jr. (USA, ret.), Brig. General John H. Grubbs (USA, ret.), Brig. General James E. Hastings (USA, ret.), Brig. General John H. Johns (USA, ret.), Brig. General Maurice D. Roush (USA, ret.).

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Mr. Speaker, I rise today because several worthy amendments to this bill were not ruled in order for consideration, including my own amendment that I offered, which was an amendment that was very simple. It said, if this country is going to resume the testing of nuclear weapons, it would first have to be authorized to do so by Congress.

I think Congress, the people's Representatives, ought to be involved in such a significant decision. This is not a partisan issue. It is an issue about having the people's Representatives involved.

The United States did conduct over 900 nuclear weapons tests at the Nevada test site from 1951 until 1992, and during most of this time, people who lived downwind of the test site were not warned about the adverse health effects associated with radiation exposure.

What is not widely known is that the fallout from weapons testing traveled across the entire country. Studies by the National Cancer Institute concluded that people in every single county in the lower 48 States were exposed to fallout.

A moratorium on nuclear weapons testing was instituted in 1992, but recent funding decisions in the appropriations process by Congress are leading us down the path to renewed nuclear testing and, therefore, as far as I am concerned, it is important that the people's Representatives, the United States Congress, ought to be asked to come up for a vote on whether or not we should resume nuclear testing.

This amendment was not ruled in order and, therefore, I encourage all my colleagues to oppose this rule.

Mr. FROST. Mr. Speaker, how much time remains on our side?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Texas (Mr. FROST) has 3 minutes remaining, and the gentlewoman from North Carolina (Mrs. MYRICK) has 3¼ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I think it should be obvious to everybody that we have a huge agenda of meritorious issues that will not be brought to the well of the House. We will not have today a free market of ideas as we deal with and debate one of the most important bills we will bring up.

So when I emphasize to every Member that if you want to have a free and full and serious debate, then you should vote against this rule and you should vote first against the motion to move the previous question. That will open up the process so that we can offer amendments.

And before concluding, I would like to ask the gentlewoman, given the amendment I am proposing that would deal with the needs of our NCOs and an incipient problem, and that is retention and recruitment, will the gentlewoman allow me to make a unanimous consent request to put in order amendment No. 89, which would increase the targeted pay increase for senior enlisted personnel and warrant officers and use, as an offset, a partial reduction in the big increase in the ballistic missile program.

Mr. Speaker, I ask unanimous consent for the approval of my amendment, amendment No. 89.

The SPEAKER pro tempore. The gentleman from South Carolina asks unanimous consent that his amendment, which is not proposed to be made in order by the Committee on Rules, be permitted to be in order. Does the gentlewoman from North Carolina object to the request of the gentleman from South Carolina?

Mrs. MYRICK. Yes, I do object.

The SPEAKER pro tempore. Objection is heard.

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

Mr. Speaker, I urge Members to vote ''no'' on the previous question and on the rule. If the previous question is defeated, I will offer an amendment to the rule that will make in order the amendment offered by the gentleman from South Carolina (Mr. SPRATT), which the Committee on Rules defeated on a straight party-line vote early this morning and for which unanimous consent was just denied.

Mr. Speaker, this is the second year in a row the Republican leadership has chosen to throw away the long-standing tradition of bipartisan cooperation in shaping our national defense policies. Nearly 100 amendments, most of them by Democratic Members, were shut out of the rule, including the Spratt amendment. It is a very sad day for the American people and particularly for those serving in the military.

Partisan politics have absolutely no place when it comes to protecting the brave American men and women who are serving in our military in harm's way. The Spratt amendment would provide $300 million additional dollars to give well-deserved pay raises to the sergeants and warrant officers who train and lead enlisted personnel. His amendment also guarantees military personnel serving in combat zones will have life insurance.

Mr. Speaker, I ask unanimous consent that the text of the amendment and extraneous materials be inserted in the RECORD immediately prior to the vote on the previous question.

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

There was no objection.

Mr. FROST. Mr. Speaker, I urge a ''no'' vote on the previous question and a ''no'' vote on the rule.

Ms. LEE. Mr. Speaker, I rise today in opposition to this rule, which silenced all three of my amendments.

My first amendment called for the creation of an international commission, with Iraqi, U.S., and U.N. participation, to monitor prison conditions in Iraq. The Geneva Convention is neither quaint nor obsolete, and this amendment would have ensured compliance and help to restore badly damaged U.S. credibility.

My second amendment would have created a database of those who have been detained.

My third amendment prohibited the use of U.S. funds in the overthrow of democratically elected governments. Given the allegations of this government's involvement in the overthrow of President Aristide in Haiti, this amendment would have restored confidence in the protection of democracy.

Once again debate was stifled on many critical issues. The Republican majority continues to abuse its power.

Oppose this rule.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES.—RULE ON H.R. 4200 NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

At the end of the resolution, add the following:

SEC. 6. Notwithstanding any other provision of this resolution, the amendment printed in section 7 shall be in order as though printed as the first amendment in the report of the Committee on Rules if offered by Representative Spratt of South Carolina or a designee. That amendment shall be debatable for 60 minutes equally divided and controlled by the proponent and an opponent.

SEC. 7. The amendment referred to in section 6 is as follows:

AMENDMENT TO H.R. 4200, AS REPORTED

OFFERED BY MR. SPRATT OF SOUTH CAROLINA

In section 421, add after the dollar amount (page 94, line 16) the following: ''(increased by $300,000,000)''.

At the end of subtitle A of title VI (page 209, after line 3), insert the following new section:

SEC. 6___. TARGETED PAY RAISE FOR SENIOR ENLISTED PERSONNEL AND JUNIOR WARRANT OFFICERS.

(a) INCREASE IN BASIC PAY.—The Secretary of Defense shall use $300,000,000 of the amount appropriated pursuant to the authorization of appropriations in section 421 to increase the rates of monthly basic pay for enlisted members of the Armed Forces in the pay grades E–5 through E–9 and warrant officers in the pay grades W–1, W–2, and W–3.

(b) RELATION TO OTHER PAY RAISE AUTHORITY.—Pay increases provided members of the Armed Forces pursuant to subsection (a) are in addition to the increase in the rates of monthly basic pay for members required by section 601.

At the end of subtitle B of title VI (page 230, after line 4), insert the following new section:

SEC. 6_____. INCREASE IN AMOUNT OF IMMINENT DANGER PAY TO COVER DEDUCTIONS FROM BASIC PAY FOR SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE.

Section 310 of title 37, United States Code, is amended by adding at the end the following new subsection:

''(f) ADDITIONAL INCREASE TO COVER DEDUCTIONS FOR SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE.—(1) During the period specified in paragraph (3), in addition to the rate of pay authorized by subsection (a) or (e) for a month, a member who is eligible for special pay under this section for a month and who is insured during that month under Servicemembers' Group Life Insurance shall also receive an amount equal to the amount of the deduction from basic pay prescribed for the level of Servicemembers' Group Life Insurance coverage obtained by the member under section 1967 of title 38.

''(2) To the maximum extent practicable, the Secretary concerned shall give members who will be assigned to duty under circumstances or in an area for which special pay is provided under this section notice, in advance of the deployment, of the following:

''(A) The availability of additional pay under this subsection for members insured under Servicemembers' Group Life Insurance.

''(B) The ability of members who elected not to be insured under Servicemembers' Group Life Insurance, or elected less than the authorized maximum coverage, to obtain additional coverage as provided in section 1967(c) of title 38.

''(3) Additional pay under paragraph (1) shall be available only during the period beginning October 1, 2004, and ending December 31, 2005. The total amount expended under such paragraph may not exceed $50,000,000.''.

At the end of subtitle A of title II (page 28, after line 14), insert the following new section:

SEC. 2___. ADDITIONAL MATTERS RELATING TO AMOUNTS FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.

(a) INCREASE FOR NAVY RDT&E.—The amount in section 201(2) for research, development, test, and evaluation, Navy, is hereby increased by $14,700,000, of which—

(1) $6,400,000 shall be available for the Nonlethal Weapons program element (PE 0603851M); and

(2) $8,300,000 shall be available for the Marine Corps Communications System program element (PE 0206313M), of which—

(A) $3,800,000 shall be available within that element for the Communication Emitter Sensing and Attacking System project; and

(B) $4,500,000 shall be available within that element for the Marine Aviation Command and Control System Sustainment project.

(b) INCREASE FOR ARMY RDT&E.—The amount in section 201(1) for research, development, test, and evaluation, Army, is hereby increased by $49,700,000, to be available for the Patriot PAC–3 Theater Missile Defense program element (PE 0604865A).

(c) REDUCTION IN DEFENSE-WIDE RDT&E.—The amount in section 201(4) for research, development, test, and evaluation, Defense-wide, is hereby reduced by $414,400,000, of which—

(1) $77,000,000 shall be derived from the Ballistic Missile Defense System Interceptor program element (PE 0603886C);

(2) $289,400,000 shall be derived, within the Ballistic Missile Defense Midcourse Defense Segment program element (PE 0603882C), from the Ground-based Midcourse Defense Block 2006 program, to be derived by eliminating funding for—

(A) construction of silos;

(B) a second In-flight Interceptor Communications Systems Data Terminal at Fort Greely, Alaska; and

(C) construction of a second launch complex at Fort Greely, Alaska;

(3) $25,000,000 shall be derived from the Ballistic Missile Defense Technology program element (PE 0603175C); and

(4) $23,000,000 shall be derived from the Ballistic Missile Defense Products program element (PE 0603889C).

(d) PROHIBITION ON SPACE-BASED INTERCEPTOR.—None of the amounts authorized to be appropriated or otherwise made available for fiscal year 2005 or any prior fiscal year for the ballistic missile defense may be used to develop the space-based interceptor that is part of the Block 2012 element of the Ballistic Missile Defense System Interceptor program element (PE 0603886C).

(e) LIMITATION ON NUMBER OF SILOS.—None of the amounts authorized to be appropriated or otherwise made available for fiscal year 2005 or any prior fiscal year for the Ballistic Missile Defense Midcourse Defense Segment program element may be obligated for construction of a missile defense interceptor silo at Fort Greely, Alaska, if construction of that silo would result in the total number of such silos at Fort Greely being a number in excess of 16.

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

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

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Mr. FROST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken later today.

HONORING PAST AND CURRENT MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND ENCOURAGING AMERICANS TO WEAR RED POPPIES ON MEMORIAL DAY

Mr. SCHROCK. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 424) honoring past and current members of the Armed Forces of the United States and encouraging Americans to wear red poppies on Memorial Day.

The Clerk read as follows:

H. CON. RES. 424

Whereas the red poppy was the first living plant that sprouted in the battlefields devastated by fighting during World War I;

Whereas red poppies grew abundantly in the trenches and craters of the war-torn battlefields in Northern France and Belgium;

Whereas during World War I, the bloom of red poppies each year and the coming of the warm weather brought hope to those still fighting in the trenches of France and Belgium;

Whereas in 1915, the red poppy inspired Canadian Colonel John McCrae to write the poem ''In Flanders Fields'' in remembrance of the thousands of soldiers who perished during the three battles of Ypres in Belgium;

Whereas in 1918, John McCrae's poem inspired Moina Belle Michael of Athens, Georgia, to write her own poem entitled ''We Shall Keep the Faith'', in which she promised to wear a red poppy to memorialize American soldiers killed in World War I, and later to raise millions of dollars to support and employ disabled American veterans of all wars;

Whereas on November 11, 1921, the first Poppy Day was held in the United Kingdom and was a national success;

Whereas the red poppy is a symbol of sacrifice throughout the world;

Whereas the red poppy has been worn in the United States for more than 80 years as a way to remember those individuals who died fighting for freedom and democracy around the world and to raise money to help disabled veterans; and

Whereas in 2004, wearing a red poppy on Memorial Day is especially timely considering the sacrifices United States soldiers are making in Iraq and Afghanistan for freedom, democracy, and security: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress honors past and current members of the Armed Forces of the United States and their families by encouraging every American to wear a red poppy on Memorial Day as a sign of admiration and thanks to those individuals who died to preserve freedom and democracy in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCHROCK) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCHROCK).

GENERAL LEAVE

Mr. SCHROCK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 424, the concurrent resolution currently under consideration.

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

There was no objection.

Mr. SCHROCK. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of H. Con. Res. 424.

Mr. Speaker, many of those watching today's proceedings may notice that many of us here on the floor are wearing the red poppy. It is, in fact, a symbol of Memorial Day and an acknowledgment of the sacrifice made by armed services personnel in fighting for our freedom throughout the world.

Next weekend, our Nation will celebrate Memorial Day. All too often we forget the purposes of those celebrations, but Memorial Day is a very important day set aside to honor and acknowledge the sacrifice of all of those who have served our Nation and died in their service to our Nation. It is a day, as we will hear during this debate, with a long and important history.

It is a day which began as Decoration Day, following the deaths during the Civil War of so many soldiers, a day, as we will hear in this debate, civilians went to the fields to decorate the graves of soldiers who had died in battle and decorated the graves of all soldiers, both Confederate and Union.

Mr. Speaker, it is most fitting that this year, in this resolution, we would call upon the American people to make a special point of wearing a red poppy and of acknowledging the ultimate sacrifice made by our troops. Because this year, on Memorial Day, we will have troops in the field in both Iraq and Afghanistan, and throughout the world, who are serving our Nation and who themselves have been joined by soldiers who have made the ultimate sacrifice.

This resolution acknowledges the importance of the red poppy, which has been adopted by the American Legion and by the Auxiliary of the American Legion as the official flower honoring the sacrifice of those who have died in our Nation's service.

□ 1245

It seems to me, as Members will hear in this debate, there was a time in our Nation when all Americans on Memorial Day wore a red poppy to acknowledge sacrifices made by our Armed Forces personnel. It has now become a worldwide tradition.

I commend the gentleman for offering the resolution, and I encourage my colleagues to join in this debate, and I thank them for wearing the red poppy today.

Some 535 red poppies were donated to Congress, and every Member of the House and Senate has a red poppy to wear today and on Memorial Day in recognition of this grand tradition and in recognition of the sacrifice paid by our soldiers, including those who have lost their lives in the recent battles in Afghanistan and Iraq, one of those soldiers being Pat Tillman from my State whose life was tragically lost within the last month.

Mr. Speaker, I urge adoption of this resolution.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H. Con. Res. 424, introduced by the gentleman from Arizona (Mr. SHADEGG). This timely resolution honors the men and women who serve in uniform and calls on all Americans to recognize the sacrifices of those who have given their lives to protect our freedom by wearing a red poppy on Memorial Day, May 30.

In 2 weeks, our Nation will observe Memorial Day. Sadly, the true meaning of Memorial Day seems to have faded over the years, and for many young Americans, Memorial Day is often seen as just another holiday or the beginning of summer. This is sad and unfortunate as Memorial Day is a time to remember and honor those who have died in service, defending our Nation.

The resolution before us honors those who have given their lives in service to their country and encourages Americans to wear a red poppy on Memorial Day.

A number of people have asked, ''Why wear a red poppy?'' The red poppy grew abundantly in the battlefields of World War I, and it was the inspiration for several poems at the time, including such notable poems as ''Flanders Fields,'' written by John McCrae in May, 1915, and a poem by Moina Michael, entitled ''We Shall Keep the Faith,'' written in November, 1918.

The first Poppy Day was held in England on November 11, 1921, and since that time, the red poppy has been a

symbol of sacrifice. For over 80 years, the red poppy has been worn to honor those who have made the ultimate sacrifice for our country and to raise money to help our disabled veterans.

A poem attributed to Don Crawford entitled, ''Why Wear a Poppy'' captures the significance of this special flower, and I would like to read the poem for the RECORD.

WHY WEAR A POPPY

''Please wear a poppy,'' the lady said
And held one forth, but I shook my head.
Then I stopped and watched as she offered them there,
And her face was old and lined with care,
But beneath the scars the years had made
There remained a smile that refused to fade.
A boy came whistling down the street,
Bouncing along on care-free feet.
His smile was full of joy and fun,
''Lady,'' said he ''May I have one?''
When she pinned it on he turned to say,
''Why do we wear a poppy, today?''
The lady smiled in her wistful way,
And answered ''This is Remembrance Day,
And the poppy there is the symbol for
The gallant men and women who died in war,
And because they did, you and I are free,
That's why we wear a poppy, you see.
I had a boy about your size,
With golden hair and big blue eyes.
He loved to play and jump and shout,
Free as a bird he would race about.
As the years went by he learned and grew
And became a man—as you will too.
He was fine and strong with a boyish smile,
But he'd seemed with us such a little while
When war broke out and he went away.
I still remember his face that day.
When he smiled at me and said 'Good-bye,
I'll soon be back, Mom, so please don't cry.'
But the war went on and he had to stay,
All I could do was wait and pray.
His letters told of the awful fight,
(I can see it still in my dreams at night.)
With the tanks and guns and the cruel barbed wire,
And the mines and bullets, the bombs and fire.
Till at last, the war was won,
And that's why we wear a poppy, son.''
The small boy turned as if to go,
Then said, ''Thanks, lady, I'm glad to know.
That sure did sound like an awful fight.
But your son, did he come back all right?''
A tear rolled down each faded cheek,
She shook her head, but didn't speak.
I slunk away in a sort of shame,
And if you were me you'd have done the same,
For our thanks in giving, is oft delayed,
Though our freedom was bought, and thousands paid,
And so when we see a poppy worn,
Let us reflect on the burden borne
By those who gave their very all
And asked to answer their country's call,
That we at home in peace might live.
Then wear a poppy. Remember—and give!''

Mr. Speaker, this Memorial Day each hometown across America will pause to remember the heroes of this generation as well as those of the past. Let us honor and pay tribute to the over 900 American service members who have given their lives in Iraq and Afghanistan, along with all those who die in service to their Nation.

On Guam, we have lost three young men in Iraq: Specialist Christopher Wesley, Lieutenant Michael Vega, and Sergeant Eddie Chen. One officer, two enlisted men. Wesley, Vega and Chen, these three, are a microcosm of the American people, one Western name, one Hispanic name, and one Asian name.

In these troubled times, it is worth reflecting on Memorial Day who we are as a Nation and what values we stand for. We are a Nation of immigrants whose parents and grandparents have come to these shores seeking individual liberty, prosperity and human dignity. The Nation we call our own is a Nation of compassion and justice. It is a Nation worth dying for. It is a Nation of opportunity and freedom.

We on Guam know what freedom is all about because we also know what occupation is. We celebrate Liberation Day on Guam every year as the day of deliverance of enemy occupation and the return of freedom after 32 months of enemy subjugation. We know what it means to thank Marines, soldiers, airmen and sailors for their sacrifices because it was not all that long ago that we were an occupied land.

Tomorrow, I will be accompanying former Congressman General Ben Blaz, the veterans of the 5th Field Service Depot of the United States Marine Corps to Arlington National Cemetery. We will lay a wreath at the Tomb of the Unknown Soldier to express our deep appreciation to all those who serve and have served our Nation in uniform. We thank them, honor them, and will never forget them.

I urge my colleagues to support this resolution.

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

Mr. SCHROCK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me thank the gentleman from Arizona (Mr. SHADEGG) for introducing this resolution. I want to thank my very good friend of nearly 3 decades, the gentlewoman from Guam (Ms. BORDALLO), for that wonderful poem. I know the sacrifices the folks on Guam made. I was privileged to serve in Guam during my Navy career, and I know what a great place that is and what a wonderful woman the gentlewoman is.

Mr. Speaker, as our Nation struggles to answer threats to our security in this global war on terror, it is appropriate that we both remember and seek inspiration from the sacrifices of the generations that have gone before in defending our freedoms, our way of life and the ideals on which our Nation is founded. Their sacrifices changed the world in which we live and made possible the freedoms we enjoy in today's world. Ours is a continuation of their struggle.

The red poppy is a symbol that even on the tortured soil of a war-torn battlefield, our soldiers can be reminded that despite the death and violence which surrounds them, the world for which they are fighting is vibrant and future beautiful. This remains an important symbol for every American, both in and out of uniform, who may feel overwhelmed by the death and violence of today's world.

It is important that we stop and consider the sacrifices of our men and women in uniform. Their service is an honorable one, and our Nation owes them a debt we can never fully repay. That our Nation takes a day to contemplate and remember their sacrifice is an appropriate tribute to their efforts.

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

Ms. BORDALLO. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ISRAEL), but first thank the gentleman from Virginia (Mr. SCHROCK) for his very kind words.

Mr. ISRAEL. Mr. Speaker, I rise in support of this bill, and we should wear poppies to honor the sacrifices of our troops, but we should express our support not only on our lapels, but in our budgets.

It is somewhat ironic to me that we would consider this bill, as important as it is, only a few moments after we had a rule on this floor on our defense budget, a rule that excluded an amendment that the gentleman from South Carolina (Mr. SPRATT) and I advanced that would pay for our troops' life insurance.

I have lost four constituents from my district in Afghanistan and Iraq: Raheen Tyson Heighter, Michael Esposito, Jacob Fletcher, and Nate Bruckenthal.

Raheen Tyson Heighter was 19 years old when he joined the Army. And when he was told that he needed life insurance, this young man, being a fearless young man, chose the least expensive life insurance policy because the premium was all that he could afford, and the policy was all that he believed he needed because he believed he would be coming back home.

He did not come back home alive; he was killed on July 24, 2003. His casualty officer called his mother and said, Your son's life insurance policy was $10,000.

Mr. Speaker, $10,000 is not adequate. And what is even worse is while Mr. Heighter was taking bullets in Iraq, Uncle Sam was taking 80 cents a month from his gross monthly pay of $1,987, including hazard duty pay, for his life insurance.

Mr. Speaker, I know that we all agree, when we send troops into combat to protect our national security, they should not have to worry about their family's financial security in the event they do not return.

I know that all of my colleagues on both sides of the aisle agree that we have an obligation to honor those who have made the eternal sacrifice every single day, that we must display our commitment and our reverence to them, display it; but also pay for what we owe them as well, not simply display, but pay to help their families.

That would be the true mark of how we honor our heroes, the men and women who have made such heroic sacrifices, with poppies, but also with dollars.

I, of course, will support and proudly vote for this bill, but I hope that my

colleagues in this Congress and that the President of the United States will understand that it is more than just poppies and it is more than just words, it is budgets that count ultimately.

Mr. SCHROCK. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. WICKER) to refocus our attention on what this bill is really about.

Mr. WICKER. Mr. Speaker, I can remember as a young boy, going to downtown Pontotoc, Mississippi, with my parents on Memorial Day to hand out poppies.

I thought Members might be interested in a little history lesson about the origin of Memorial Day which began as Decoration Day. The facts, as I have come to understand them, are that in 1866 a group of Columbus, Mississippi, women met to decide on a way to honor the Confederate war dead in the local Friendship Cemetery.

Once the ladies arrived at the cemetery, one of the women began placing flowers on the graves of Union soldiers, too, because they also had given their lives for their beliefs.

□ 1300

Other women followed suit and soon all of the graves, Confederate and Union, had flowers. This generous gesture was told and retold and finally made its way to the New York Tribune where the short article was seen by a young attorney named Francis Miles Finch. He was so moved by the generosity of the Southern ladies and their Decoration Day that he wrote the poem ''The Blue and the Gray'' and it was published in the Atlantic Monthly in September of 1867.

Mr. Speaker, other towns may claim Decoration Day or Memorial Day perhaps earlier than the one in Columbus, but Columbus, Mississippi, was the first to honor former enemies. Here is what the Library of Congress said:

''Columbus, Mississippi, thus can rightly claim to be not only one day ahead of Columbus, Georgia, in its observance of Memorial Day but more generous in its distribution of the tributes of honor and mourning.''

Mr. Speaker, I am proud to represent Columbus, Mississippi, in the Congress, the place where Memorial Day first began.

Ms. BORDALLO. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I humbly suggest that if we want to make the poppy in our lapels more than a mere gesture, we should vote ''no'' on the previous question on the rule that will make in order the defense authorization bill. Because by voting ''no,'' we will make in order the consideration of an amendment that I have offered which contains two key elements that go to the very heart of what it is we are discussing here right now.

We would take a little bit of money out of a huge increase in ballistic missile defense and put it in a place where it will do a lot of good, namely, in targeted pay increases to our enlisted personnel, particularly our NCOs and our junior warrant officers. It costs $300 million. It is not something I pulled out of the air. It was recommended 3 years ago by the last quadrennial review. For 2 fiscal years we have done it; this year we have not in the bill before us. We can rectify that by voting ''no'' and then voting for the amendment.

In addition, we do something else in the amendment that I would offer, that is, we say to every soldier, sailor, airman and Marine going into combat, into harm's way, Uncle Sam is going to see to it that you get the maximum in servicemen's life insurance, group life insurance, $250,000. The premium will be paid by an increase in your imminent danger pay, two things that will say volumes to our soldiers about how much we appreciate what they are doing for today, the risks they are taking; two things that we can say that will make more than just this mere gesture a sincere commitment to those who have gone in harm's way and laid their life on the line to make this the home of the free and the land of the brave.

Mr. SCHROCK. Mr. Speaker, we really have had time to debate what the last gentleman has discussed. It is too bad we are saddening the debate on this for that kind of discussion. There was certainly plenty of time for that.

Mr. Speaker, it is my privilege to yield 2½ minutes to the gentleman from North Carolina (Mr. JONES), one of the strongest advocates of the military that I have ever known.

Mr. JONES of North Carolina. Mr. Speaker, I want to thank the gentleman from Virginia and the gentlewoman from Guam, and I want to thank my friend from Arizona for bringing this resolution to the floor.

Mr. Speaker, it is important, whether we agree or disagree on whether our troops should be in Iraq or not, the fact is they are there. They have families that live in my district, the home of Camp Lejeune, Cherry Point, Seymour Johnson Air Force Base; and I think that probably this year as much as ever if not even more than ever that on Memorial Day we the American people wear the red poppy to show our appreciation and our allegiance to the men and women in uniform and those who have given their sons and their daughters to die for freedom.

I brought with me today on the floor for my couple of minutes the faces of the real. To my left, Mr. Speaker, is a young man whose name is Tyler Jordan. Tyler's father was a gunny sergeant, Phillip Jordan, who was killed last year in Iraq. I bring this to the floor, Mr. Speaker, because this photograph speaks much better than I could ever speak. It shows a young man who is looking at the casket of his father. It is showing a young man who has a folded flag under his arm. These are the faces of the families who have given loved ones from the beginning of this great Nation through and including today.

The other poster, Mr. Speaker, I have outside of my office, 12 of these posters that say ''May We Never Forget.'' The reason for that is why we are here today speaking on behalf of this resolution. The red poppy is a reminder of past wars, of past gifts, of a husband, a wife, a son, or a daughter. This Nation does owe those who have worn the uniform and their families. We should never forget those who wore the uniform for this Nation. We should never forget those who gave their lives.

It so happens that this past Saturday night in my home district, a Reservist, Rodney Murray who died in Iraq 2 weeks ago, I went to visit and I had the chance to speak to the wife, a 24-year-old lady, whose husband, 28, died in Iraq 2 weeks ago. I said, Amanda, on behalf of the United States House of Representatives, I extend to you my deepest sympathy and my gratitude on behalf of my colleagues. Mr. Speaker, tears came to my eyes. I could not even complete the statement.

I close today by saying to my colleagues on both sides of the aisle, please support this resolution, as we will do, and let us not forget as we begin to debate the needs of our retired military and those who have served and their families. God bless America and God bless our men and women in uniform.

Ms. BORDALLO. Mr. Speaker, I would like to go on record to thank the gentleman from North Carolina. I pass those posters every day on my way to my office. I think it is a wonderful tribute that he is paying to the men and women in service who have lost their lives.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON), ranking member of the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, I thank the gentlewoman for yielding me this time, and let me compliment my friend and colleague from Arizona for offering this resolution.

It was November 11, 1941. My father, another Ike Skelton, was the best known orator in Lafayette County, and he was invited to speak to the Odessa, Missouri, High School assembly on Armistice Day. By prearrangement with my teacher, he took me out of grade school and we drove to Odessa. I sat in the back of the Odessa student body while I watched the program. The students put on a skit in Army uniform with the leggings and the drill sergeant hat and bass drums simulating artillery, and then my father spoke.

Being a Navy veteran of the First World War, he spoke as a veteran. He said to that student body audience, November 11, 1941, that there are those in this audience that may well have to fight for our freedoms once again. How prophetic he was, because not long thereafter, less than a month, the Japanese bombed Pearl Harbor, and Adolf

Hitler the following day declared war on our country. Two of the young men graduating from that high school class of May 1942 gave their lives in Germany on the battlefield.

In the closing part of my father's speech to those students that day, he recited the poem that came out of the Great War written by a Major John McCrae:

In Flanders fields the poppies blow
Between the crosses, row on row
That mark our place; and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.
We are the Dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie
In Flanders fields.

Take up our quarrel with the foe:
To you from failing hands we throw
Our torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields.

Mr. Speaker, it is appropriate that we pass this resolution and that we pay honor to those in uniform of yesteryear and that we express appreciation and gratitude for those who defend the freedoms of our country today.

Mr. SCHROCK. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, I was privileged to grow up the son of Major General Gene Renzi out of Fort Huachuca, Arizona. I grew up in a home where our house was filled with veterans and troops who came back with great life stories of the sacrifices and the contributions that they made to our Nation.

And so it is a great honor for me to stand before you and pay tribute today to those who have given their full measure, who have contributed so much to our society and who have allowed me to breathe free and to stand in the halls of Congress and to try and serve and give a little back.

I am privileged to serve on the Committee on Veterans' Affairs where it is our obligation to hold and to care for the surviving families, the wives, the spouses, the husbands and the kids who have seen their moms and dads go off and who may have lost their loved ones in defense of our Nation.

We are at a time of patriotism in our country, a real crossroads where our resolve is being tested, with the rise of patriotism and the showing of American flags. The wearing of the poppy flower symbolizes a remembrance of past days where we loved our Nation. That time is welcomed.

Each year I have the great honor to walk in parades all around rural Arizona, small towns like Payson, Arizona. I love to stand behind and walk behind our veterans and our troops. It is so moving each year to see the moms and dads along the parade route rise up out of their lawn chairs and show great respect and deference to our flag by removing their hats, putting their hands over their hearts, and calling out to those veterans the great job, the love that they have for them. Again we breathe free because of the sacrifice our veterans have made.

On this Memorial Day, I ask that we raise the flag, that we wear the poppy, and I give thanks and ask God's grace for our troops and our veterans.

Ms. BORDALLO. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the distinguished gentlewoman from Guam for her leadership and also her eloquence. I have heard her often speak of the military personnel in her area, not only speak for them, but advocate for them; and I thank her for her leadership in this issue and many other issues. I thank the gentleman from Arizona (Mr. SHADEGG) for his leadership as well, bringing us together on this day, because I believe it is important to announce to the world that there is not one moment of divide amongst us as it relates to the honor and commemoration of those who honor us by giving the ultimate sacrifice, but also taking the oath to serve in the United States military.

Might I say to you that I come with a heavy heart, for I pay tribute today to a young private by the name of Sotelo. I visited with his family as they learned the tragic news just last year of this young, almost 21-year-old in my congressional district who lost his life on the front lines of Iraq.

□ 1315

His mother cried, his father cried, his family members cried, not because they did not recognize his willingness to give the ultimate sacrifice but because not only was it his sacrifice, but as the family looked into the future of his future, they knew that this bright light would be extinguished forever.

We funeralized him at his beloved high school, Reagan High School, the wishes of his parents, on a very hot, very hot and solemn day in June; and then we looked to honor him on this coming Memorial Day. But also we honored him as his mother was able to spend Mother's Day together with other mothers, the Gold Star Mothers, who lost young people in this terrible thing called war.

I was in Flanders Field, in the burial place of thousands of those from World War I, the graveyards near that area. And I simply want to say that death is a horrible experience for those families left longing, but it is for those brave souls who are willing to give their lives that we must stand together and fight for what is right.

This is a day of honor, and I hope on Memorial Day we will honor them by wearing poppies. But I do believe it is important to bring honor today.

I would have hoped that we would have had a bipartisan rule. I think we must also respect the living by keeping veterans' hospitals open and access to health care available, and by providing for the Spratt amendment to provide $414 million to be able to give an increase in salary. And, yes, I think it is important, even on this day as we raise this wonderful resolution up, to give honor to those who are in the armed services.

We must recognize that accountability is important. As our line officers today are being prosecuted, this does not taint the entire military, for we respect them, but it does say that we hold those responsible at the top, for they are responsible too.

Mr. SCHROCK. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Virginia for yielding me this time.

What a fantastic way to recognize the veterans of all of our wars, but of course this, as we know, the wearing of the poppy, it all started after World War I, and it is talked about in the resolution.

But it was a physician from Canada, Dr. John McCrae, who had a friend who was killed in Belgium and was buried at Flanders Fields, and Dr. McCrae himself, later on, in that war to end all wars, died of pneumonia on the battlefield and never made it back to his practice in Canada. But before he died, of course, he wrote that great poem that we will know today "In Flanders Field," and the last stanza of that poem I think went something like:

"To you from failing hands we throw
The torch; be it yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields."

And what Dr. McCrae was saying to us and to future generations and to all generations was, never forget, no matter what battle it was, whether it was the Civil War or Operation Iraqi Freedom today, these young men and women are dying for a cause; and whether one agrees with them or not, they had no choice.

In many cases, they were conscripted. Today, we have an all-volunteer military, but they are there defending our freedom, and many of them are paying the ultimate sacrifice.

So that is what this poppy says. And for me to have a little opportunity today just before Memorial Day to talk about this and to support H. Con. Res. 424, I am very proud to do that. What a wonderful way to honor our men and women in the military.

Ms. BORDALLO. Mr. Speaker, I reserve the balance of my time.

Mr. SCHROCK. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to recognize two Fourth Congressional District members of our military, Wilfredo Perez, Jr., from Norwalk, Connecticut; and Tyanna Avery Felder from Bridgeport, Connecticut; both lost their lives in Iraq fighting for freedom and fighting for justice and fighting for the United States of America on behalf of a better world.

We have lost 773 in Iraq. We have lost 122 men and women in Afghanistan. And I think it is just absolutely essential we recognize all who have lost their lives by wearing this red poppy on Memorial Day and asking all Americans do that. I thank the sponsors of this legislation for advocating that kind of recognition.

I close by saluting one community, in the 4th Congressional District, Greenwich, Connecticut. In Old Greenwich the community rings a bell for every American who has lost his or her life fighting for America, and that goes back before the Revolutionary War.

We are a great Nation, with an extraordinary history. We must never forget those who served in battle and came home draped in an American flag.

Mr. SCHROCK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I rise in strong support of this resolution as we honor both the past and current members of the armed services, and also their families, as we encourage every member of the American public to wear the red poppy on Memorial Day.

To many people, especially the Nation's thousands of combat veterans on this day, history that goes back all the way to the Civil War, it is an important reminder of all those who died in service to their Nation, the brave, the proud, the strong who gave their lives so that so many of us today can have the freedoms that we have.

And it is proper that we honor this today in light of all those men and women who find themselves in harm's way as we speak, risking their lives over in the Middle East. And it is proper also that this House does all that we can do as we continue to work on this side to provide services for our veterans, services of better health care, enhanced housing access, job opportunities, and benefits for their loved ones at home.

So I encourage all Members and the constituency back in the district in the great State of New Jersey to wear a poppy on this day, and also to honor those men and women by going to the cemeteries, visiting memorials, and also by participating in the National Moment of Remembrance at 3 p.m. to pause and think on the true meaning of this day.

Mr. SCHROCK. Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank all of my colleagues who spoke in support of this resolution. Each of us will have a chance to spend some time with veterans from our districts on Memorial Day.

We know we owe them more than words for their service, but the words spoken here today came from the heart. And I would like to express my heartfelt thanks to the liberators of Guam and all of our cherished veterans and outstanding servicemen and women in uniform.

I want to thank the gentleman from Arizona (Mr. SHADEGG), the author; the gentleman from Virginia (Mr. SCHROCK); and I urge all of my colleagues to support this resolution.

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

Mr. SCHROCK. Mr. Speaker, I yield the balance of my time to the gentleman from Arizona (Mr. SHADEGG), who introduced this resolution.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to close by thanking all of those who participated in this debate and who discussed the issue of this resolution. The issue of this resolution is not legislation as we debated the last hour regarding the defense appropriation. The issue of this resolution is the honoring of those American armed services personnel who have died in our Nation's service and of the great tradition of Memorial Day.

We heard here today in this discussion that there is indeed a great tradition surrounding Memorial Day that all Americans should be reminded of and should remember; a tradition that, as the gentleman from Mississippi (Mr. WICKER) reminds us, began as far as back as 1866 where veterans who had died, soldiers who had died in the Civil War, both Union and Confederate, had their graves decorated by the wives of Confederate soldiers who had died; a tradition that carried itself forward all the way to this day, a tradition that inspired the poem ''In Flanders Fields,'' read so eloquently by the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services.

There are indeed many poems that commemorate this great day in our history. One of them, ''We Shall Keep the Faith,'' written by Ms. Moina Michael of Athens, Georgia, the second city that supported and recognized Memorial Day, says:

We cherish too, the poppy red
That grows on fields where valor led,
It seems to signal to the skies
That blood of heroes never dies.

We have heard in this debate a discussion of the heroes who serve our Nation today, those who have tragically died in combat both in Afghanistan and in Iraq. I think it is indeed fitting that this year all Americans would acquire a red paper poppy and would acknowledge the sacrifice of those who have died.

As I indicated earlier, the red poppy is the national symbol of sacrifice all over the world, not just here in America. That was a tradition inspired by the fact that the red poppy was the first living plant to sprout from the devastation of the battlefields of northern France and Belgium during World War I; and its bright, vibrant color of red brought life and hope and reassurance to those still fighting and was the inspiration for the poem ''In Flanders Fields,'' which I would at this point like to insert in the RECORD, as well as the ''Poppy Poem'' by Doris Theiss, an American Legion member from Arizona, who brought this issue to my office.

It seems to me that it is fitting that this year with so many Americans still engaged in battle and the risk that today or tomorrow or the day after tomorrow or indeed when we celebrate Memorial Day next weekend itself, some American soldier may lose his or her life in the service of our country.

For our colleagues who are watching and for those around the Nation, this four-petaled crepe paper poppy became the official memorial flower of the American Legion and the American Legion Auxiliary in 1923; and in 1927, at the Paris Convention, it was decided that only veteran-made poppies would be distributed by the American Legion Auxiliary. All of the poppies we see here on the floor today, and I would assume through the balance of this week are handmade by veterans.

I think it is most fitting that we honor our veterans, most fitting in particular that we honor those who paid the ultimate sacrifice. And I would hope that by this debate and by this memorial, Americans across the Nation would remember once again the significance and the meaning of Memorial Day they would hopefully acquire from the American Legion or from the VFW, which also recognizes the red poppy, a red, four-petaled poppy like this one, and this coming Memorial Day weekend recognize and honor the tremendous sacrifice made by all those who have died in our Nation's service.

IN FLANDERS FIELDS

(By Lieutenant Colonel John McCrae, MD (1872–1918) Canadian Army)

IN FLANDERS FIELDS the poppies blow
Between the crosses, row on row,
That mark our place, and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.

We are the Dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie
In Flanders fields.

Take up our quarrel with the foe:
To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields.

POPPY POEM

A man walked down the street the other day.
The ladies of the Auxiliary came his way.
He took the poppy and gave them a dime.
He mumbled ''Why do they take up my time?''
He put the poppy in the bottom hole of his coat;
Next to some pencils and other notes.
When he went home, he placed the poppy on the table;
The red paper flower with the little white label.
As he looked at the flower, as if inspired;
He wondered ''Who put this flower in this wire?''
He's probably a man who once stood tall;
And for his country he gave his all.
Now gave his all just to walk with a cane.

His strong hand were a sense of power,
Now he makes this little red flower.
In our world, we are busy with money and power,
While this man's job is this little red flower,
He still takes pride in what he has to do;
Petal by petal he makes this flower for you.
Next year when it comes to Poppy Day,
I'll be glad to see the Auxiliary come my way.
I'll cheerfully give them generously;
For the veterans making this flower could have been me.

May God Bless You,
Doris Theiss.

Ms. EDDIE BERNICE JOHNSON. Mr. Speaker, as this country will shortly celebrate Memorial Day, we pay tribute to the veterans who have honored us with their service, and their sacrifice.

As a Nation, we are united in honoring our war dead, we also need to be as united in honoring our living veterans.

In the last paragraph of his second inaugural address, Abraham Lincoln uttered the words that would ultimately comfort untold numbers of veterans and their families for generations to come. Lincoln challenged the divided nation to "Bind up the Nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan."

Mr. Speaker, the promise of lifelong health care that this country made to our men and women in uniform is being threatened, not by the aggression of a foreign power, but by inadequate funding. As our veterans grow older, they require increased dependence on health care services.

Before elected for public office, I served as the chief psychiatric nurse at the Veterans Administration Hospital in Dallas during the 70's. I was privileged to serve in the day care and rehabilitation center of that facility for 15 years. I know firsthand that caring for America's veterans is the ongoing cost of war.

The Dallas Veterans Affairs Medical Center is an excellent example of how our nation can repay some of the debt it owes our brave veterans. The DVAMC operates 216 internal medicine beds, including a 28-bed pulmonary service. Moreover, a number of small VA hospitals and outlying community hospitals refer patients to the DVAMC for the diagnosis and treatment of complicated and unusual problems.

Mr. Speaker, I am worried that the proposed cuts will adversely affect over 70,000 Texas veterans. This number includes more than 18,000 veterans in the Dallas-Fort Worth area. It is estimated that 5,200 active patients in the Dallas-Fort Worth area will drop out of the VA Health Care System.

Mr. Speaker, how can Congress and this administration even consider slashing benefits at a time when our young men and women are still in harm's way in Iraq, Afghanistan and Southwest Asia.

Veterans should not be expected to wait in long lines, and travel farther for health care services at a diminished level. If we fail our obligation to veterans, how can we justify sending more and more young service into harm's way?

As we salute our veterans, we must also recognize the medical care provided by VA medical centers, clinics, and nursing home facilities. I applaud the efforts of the hundreds of compassionate men and women who have dedicated themselves professionally to our veterans. Let us say to them: We salute you and we thank you.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from Virginia (Mr. SCHROCK) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 424.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHADEGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

Previous question on H. Res. 649, by the yeas and nays; if ordered, adoption of H. Res. 649; previous question on H. Res. 648, by the yeas and nays; if ordered, adoption of H. Res. 648; and motion to suspend the rules on H. Con. Res. 424, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on House Resolution 649 on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 220, nays 204, not voting 9, as follows:

[Roll No. 191]

YEAS—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch

Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Davis (AL)
Deutsch
Hayworth
Johnson, Sam
Leach
Norwood
Simmons
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1356

Mr. JACKSON of Illinois and Mr. HOEFFEL changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the resolution.

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

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be 5-minute vote.

The vote was taken by electronic device, and there were—ayes 220, noes 204, not voting 9, as follows:

[Roll No. 192]

AYES—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Davis (AL)
Deutsch
Hayworth
Johnson, Sam
Leach
Norwood
Peterson (PA)
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1406

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on House Resolution 648, on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 220, nays 204, not voting 9, as follows:

[Roll No. 193]

YEAS—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen

Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Davis (AL)
Deutsch
Emerson
Hayworth
Johnson, Sam
Leach
Norwood
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1413

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

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

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 220, noes 205, not voting 8, as follows:

[Roll No. 194]

AYES—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—205

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak

Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Davis (AL)
Deutsch
Hayworth
Johnson, Sam
Leach
Norwood
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). There are 2 minutes remaining in this vote.

□ 1425

Mrs. JONES of Ohio changed her vote from ''aye'' to ''no.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING PAST AND CURRENT MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND ENCOURAGING AMERICANS TO WEAR RED POPPIES ON MEMORIAL DAY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 424.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCHROCK) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 424, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 14, as follows:

[Roll No. 195]

YEAS—419

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Baird
Conyers
Davis (AL)
Deutsch
Hayworth
Johnson, Sam
Kingston
Leach
Norwood
Nussle
Radanovich
Reynolds
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1433

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WELDON of Pennsylvania. Mr. Speaker, on rollcall Nos. 191, 192, 193, 194 and 195 I was speaking to 400 WWII veterans from my district. Had I been present, I would have voted ''aye'' on all 5 rollcalls.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida). Under clause 7(c) of rule XXII, the filing of the conference report on S. Con. Res. 95 has vitiated the following two motions to instruct conferees on that measure:

1. The motion to instruct offered by the gentleman from Texas (Mr. STENHOLM) which was debated yesterday and on which further proceedings were postponed under clause 8 of rule XX; and

2. The motion to instruct on which the gentleman from North Carolina (Mr. PRICE) provided notice yesterday.

COMMUNICATION FROM THE HONORABLE NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, May 19, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 211 of the Older Americans Act Amendments of 2000 (42 U.S.C. 3001 note), I hereby appoint Barbara Kennelly of Connecticut and Robert B. Blancato of Virginia, to the Policy Committee of the White House Conference on Aging.

Best regards,

NANCY PELOSI.

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4200.

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

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore. Pursuant to House Resolution 648 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4200.

□ 1433

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 60 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

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

Mr. Chairman, this is a bill that was put together with the bipartisan work of all members of the House Committee on Armed Services, the defense bill for the United States. It was engaged in with a great deal of detail by Republicans and Democrats to try to do the very best we could for the people that wear the uniform of the United States.

Beyond that, Mr. Chairman, we have had enormous publicity the last number of days about the mess at Abu Ghraib. I estimated we have probably devoted as much media attention to that mess involving now, as identified, some seven personnel, as we did to the Normandy invasion, and that is an imbalance. It is time to refocus.

The subjects of the refocus should be the 135,000 great personnel doing their job in Iraq and the tens of thousands doing their job in Afghanistan and around the world in this war against terrorism. So I just thought I might start out, Mr. Chairman, by reminding my colleagues that while that much-publicized mess was taking place with just a few people at Abu Ghraib Prison, Master Sergeant Tony Prior was taking on an enemy position in Afghanistan and was single-handedly taking out four insurgents, the last one in hand-to-hand combat to win the Silver Star.

Jeffrey Bohr, Gunnery Sergeant Jeffrey Bohr was over in Iraq laying down a field of fire to protect his wounded Marines who otherwise would have been killed, and he laid down that field of fire until he himself was killed.

I have dozens of such citations, Mr. Chairman, on the leadership desk, and I would hope that Members walk down. And if their heads are filled with all of the publicity about a few bad apples at Abu Ghraib Prison, I want them to pick up those citations and read about the good apples, the great Americans who fill out this 2.5-million-person force that wear the uniform of the United States, active, Guard and Reserve.

This bill is a big bill, and my great partner, the gentleman from Missouri (Mr. SKELTON), the ranking member, have worked on it along with all of the members of the committee. Almost all of our members have gone to Iraq now. A lot of them have also gone to Afghanistan, some of them multiple times. We have visited troops, held extensive hearings, and we put together a bill that we think supplies the wherewithal, the equipment for our troops to get the job done.

Let me go over a couple of those things, and then I want to listen to my colleagues on the Democrat side of the aisle who have been such great partners in this endeavor.

First, we have tried to focus on this theater in Iraq because our people need equipment, they need to have the very best equipment. They are over there in the heat and in enemy fire with oppressive living conditions. We have devoted and focused our dollars on that theater, so we pulled some money out of some areas that are not right now relevant, closely relevant, to that warfighting theater, more long-range things, things that are peripheral.

We focused that money on things like force protection, up-armored Humvees, steel for the trucks, the 5-ton trucks for the Army, 7-ton trucks for the Marine Corps, replenishment of ammunition, surveillance capability so we can see the bad guys and engage them before they can get in tight to our troops. All of the leverage we can give them with high technology, we give them in this bill.

We also look to their families. We have this 3.5 percent pay raise across the board, we have an expansion of the amount of money that our troops now get for hazardous duty and for separation from their family. We have also put in a survivor benefit for the widows of our military people and for the widowers of our military people so they will not have this offset against Social Security.

We have tried to do a lot of things on the people's side. We have a great bill with our military housing, our MILCON projects. We have privatization, the cap removed from 2006 on, and we are going to work to make sure there is no seam between 2005 and 2006.

Beyond that, the ranking member and I and a number of other folks have been working and looking at force levels. We now have 10 Army divisions; we used to have 18 in 1991. We have a relatively small Marine Corps, roughly 177,000. We realize we are going to need more people.

And for families who say, How come Joe is not here again for Christmas, whether he is Guard, Reserve, or active, one answer is, we have such a small force that the people have to go more often. And so we have increased in strength by some 10,000 this year, 10,000 next year and 10,000 the next year, and that coincides with Chief of Staff of the Army Schumacher's plan to increase the fighting strength of the U.S. Army by three brigades this year, three brigades next year, and four brigades the year after to add 10 new fighting brigades to the Army for a total of 43. We have also increased the U.S. Marines Corps by 3,000 personnel per year for the next 3 years.

To do that and to do a lot of the other things that we are flowing to the troops, we have also bolted onto this package a supplemental for $25 billion. That supplemental will handle the closing months of this year to make sure that our troops do not run thin on supplies or replenishment or new capabilities in the last few months of this year. It also helps General Schumacher to stand up this new modular force that he is putting into effect and reshaping the Army.

So we have that $25 billion bolted on, and that has lots of good stuff for the troops. It helps to sustain us through any tough things that we may see in the last several months of this year.

Now, we are going to need a new supplemental. We all know that. The chairman of the Committee on the Budget, the gentleman from Iowa (Mr. NUSSLE) talked about that and put a $50 billion wedge in the budget, acknowledging that fact; and we are going to have to come around at some point and have a new supplemental to get through 2005. It all depends on how far we can reasonably project. We think this $25 billion bolt-on that we are doing will do the right things for the troops.

We have gone right down through the unfunded requirements list, things that our Army, Navy, Marine Corps, and our Air Force sent to us, things that they said we need, Congress, we do not have the money for them. And we went in and paid for those things so we can pull them out and deliver them to the troops in this supplemental we have bolted on.

So this is a great bill. I want to commend the ranking member and all of the great members of the Armed Services Committee. We have great subcommittee chairmen who have worked some very tough issues; their ranking members have worked them hard, and we have brought this bill, in what is a

contentious political season, we brought this bill out on a 60–0 vote. It was a 60–0 vote because we have common ground, and that common ground is the Armed Forces of the United States and their well-being.

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

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

Mr. Chairman, I rise to urge my colleagues to support this national defense authorization bill. I will leave aside my disappointment on the rule. We are past that, and we are now discussing the bill in general debate.

This bill is a good bill. It is a solid bill, and I wish first to thank the chairman, the gentleman from California (Mr. HUNTER) for his work, for his collegial markup, and for his leadership on the bill, as it was in the committee and reported to the House. We thank the gentleman for that.

This bill is an important one because it funds the military for a year, which is good news for the United States military. For those in uniform at the individual level, it makes a number of improvements on how our soldiers live. Most significantly, it raises the cap on family housing construction. Military service can weigh heavy on a family, and I believe it is much easier for a deployed soldier to know that the family back home is living in decent conditions.

The 3.5 percent larger paycheck, of course, helps. The bill also increases the end strength, that is, the troop strength of the Army and Marine Corps. Since 1995, I have been urging this and as a result in the supplemental part, the $25 billion part of this bill, which is something which should have been done and is done, we are increasing the Army in strength by 10,000, 30,000 over 3 years; and the Marine Corps by 3,000, 9,000 over 3 years.

More broadly, the bill provides funding for the next few months of operations in Iraq and Afghanistan. I was disappointed to receive a budget request that pretended we could not foresee at least some of the level of military activity. I recently wrote that, based on historical precedent, U.S. forces may be in Iraq for the next 50 years.

□ 1445

Whether that is true or not, we can be sure they will be there for more than 3 months.

We are in a war. Neither the country nor this Congress was united in initiating the conflict, but we stand now as one with the soldiers, sailors, airmen and Marines fighting it. I expect that much of the debate over the next 2 days will concern Iraq, and rightly so. Let me mention two points, if I may.

First, events of recent weeks, from open questions relating to the transition of sovereignty, to real questions about the role of private military contractors providing security services, to the disturbing events at Abu Ghraib prison highlight the Congress's need to get better information and to take our oversight role more seriously. These are issues critical to our country's security and to our role in the world. This bill makes some steps in those directions.

Second, though, it is important that we not let a focus on the current conflict blind us to the needs of the future. This bill says fiscal year 2005; but the force structures, platforms and policies addressed in it will shape the military for 40 years or more. We have to be prepared for the full range of threats to our Nation and its interests.

We have learned lessons from the past. We have learned some real-life lessons from attempting to rapidly acquire equipment to protect our forces in Iraq. Those lessons have been incorporated into this bill where there is streamlining acquisition language to help protect those who are in harm's way.

I am disappointed in the bill's approach to nuclear weapons development and not going further to fund the foreseeable costs of our current operations. I was disappointed, too, that the amendment of the gentlewoman from California (Ms. LINDA SÁNCHEZ) to conform the Uniform Code of Military Justice was not allowed to be on this floor.

But, Mr. Chairman, we are at war. A few moments ago, we paid tribute to those who have served and do serve in uniform on a resolution involving the poppy, which we all wear. But the best thing we can do for those currently serving is to pass this bill to make sure they have the wherewithal to continue fighting and keeping the peace and stability in those far corners of the world. It is one way to say thank you, we support you, not just in words but by our votes today.

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

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Colorado (Mr. HEFLEY), chairman of the Subcommittee on Readiness, the subcommittee which oversees the biggest increment of the defense budget, all operations, maintenance and military construction.

Mr. HEFLEY. Mr. Chairman, today the U.S. military is deployed around the world in support of the war against terrorism, the efforts to rebuild Afghanistan and Iraq, and defense of the American homeland and U.S. interests abroad. H.R. 4200, the National Defense Authorization Act For Fiscal Year 2005, provides the resources necessary to keep the U.S. military ready to overcome any challenge.

H.R. 4200 includes operations and maintenance funds for training, peacetime operational tempo and depot maintenance, as well as resources to support the troops in Iraq and Afghanistan for the first months of fiscal year 2005. Of the $25 billion included in the bill for Operation Iraqi Freedom and Operation Enduring Freedom, $16 billion is directly dedicated to maintaining or improving our military readiness.

H.R. 4200 fully funds the President's environmental programs, including $3.8 billion for pollution prevention, conservation, compliance, and cleanup activities of the Department of Defense. The bill also recognizes and rewards the civilian personnel who support the global war on terror by authorizing additional pay for civilians who are proficient in foreign languages and extending health benefits to government employees who are mobilized Reservists.

In keeping with the theme of this year's bill, The Year of the Soldier, H.R. 4200 contains additional funds for soldier equipment and protective gear, authorizes the Secretary of Defense to reimburse those soldiers who needed protective body armor, but had to buy it themselves, and provides $9.9 billion for military construction and family housing. The bill also contains a provision to eliminate the cap on military housing privatization program as of October 1, 2005, saving this successful program which has improved housing for tens of thousands of military families from termination.

Finally, H.R. 4200 contains a provision that would delay the next base closure round until 2007, pending DoD reports to Congress on a number of absolutely critical, yet still unresolved, infrastructure-related issues. This provision is neither an election-year stunt nor an effort to kill BRAC forever. To the contrary, it is reflective of deep bipartisan concern that the U.S. military is undergoing too much turbulence to allow the 2005 BRAC round to be a fully informed, effective process.

We are a Nation at war against terrorism. Our military is rebuilding Afghanistan and Iraq. The Department of Defense is contemplating the most significant overseas basing changes since World War II. The military requirements to defend the homeland continue to evolve and military transformation continues to change the basic training and operational requirements of our Nation's forces. Each of these issues is a significant factor in determining the domestic basing needs of our Nation's military, and each of these issues is not yet resolved. Until the Department resolves these issues and Congress has the opportunity to review and approve these decisions, a base closure round is premature and is sure to result in poor closure and realignment decisions. As a Nation, we simply cannot afford to close a military installation in the 2005 BRAC round only to discover in 2010 that the assets at that base were both irreplaceable and now lost forever.

Mr. Chairman, this is a good bill. I encourage the support of everyone for this piece of legislation.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. ORTIZ), the ranking member on the Subcommittee on Readiness.

(Mr. ORTIZ asked and was given permission to revise and extend his remarks.)

Mr. ORTIZ. Mr. Chairman, I want to thank the gentleman from California and the gentleman from Missouri for the fine work that they have done in putting this bill together; and, of course, as the ranking member of the Subcommittee on Readiness, I am pleased to join the gentleman from Colorado in commending H.R. 4200 to my colleagues' attention and urge them to vote for this great bill because we have worked together as a nonpartisan group. We have every reason to be proud of this bill as a whole and the readiness-related portions in particular. It reflects fair and thoughtful leadership and a lot of hard, bipartisan work on the part of the committee. Again I thank the gentleman from Colorado for that. Also I want to say thank you to our staff because it is not easy when you are working on a $400 billion bill to be able to put everything together and bring it to the floor. So to the staff, thank you for a great job.

I would first like to say how proud I am of our military forces and of the thousands of civilian workers who work night and day to support our military. We owe them a debt of gratitude for their service.

Mr. Chairman, we are a Nation at war. This bill that we have put together is a prudent way to approach the difficult balancing of competing demands to assure that our troops have what they need for success. To that end, we have authorized nearly $120 billion for their peacetime operating and maintenance requirements. But, of course, we are not in a peacetime environment. For example, the Army testified that coming into this fiscal year it had $1.2 billion of unfunded maintenance requirements as it began bringing its equipment back from Iraq and Afghanistan.

Not only that, we are now depending a little too much on the Reserves and the National Guard. It has come to my attention that sometimes this equipment stays behind. They do not bring it back with them. The gentlemen who serve as National Guardsmen and Reserves are first responders in our communities. When they come back, they might not even have the equipment to train with because it is left behind. H.R. 4200 makes some progress on those concerns, but we know that we can expect a significant bill to come due when we begin to reset the force, repair the equipment as it returns from the war, and restock our prepositioned assets. That bill will be billions of dollars.

Today I ask my colleagues to support this bill. It is a good bill. It is a bipartisan bill. This is exactly what our troops need.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman from Colorado and the gentleman from Texas for their great work.

Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. SAXTON), who chairs the Subcommittee on Terrorism which oversees all of our special operators and who has spent a ton of his time this last year going to some very inconvenient places to make sure that our troops get what they need.

Mr. SAXTON. Mr. Chairman, let me begin by thanking and congratulating the chairman and the ranking member for the great leadership that they have each shown in bringing us through this process beginning in January, working through February, March and April; and here we are on May 20 taking another step forward in this process of making sure that we provide the resources that are needed by our troops in this, The Year of the Troops, which is what this bill is named after.

I rise in strong support of the bill, the National Defense Authorization Act for Fiscal Year 2005. Last week the Committee on Armed Services approved this bill unanimously, continuing the committee's tradition of bipartisanship in addressing the defense needs for our Nation. The bill contains several initiatives that will aid the armed services and the Federal Government as a whole in the ongoing war against terrorism and contains several promising provisions that will help to transform the military services.

At the request of the gentleman from California (Mr. HUNTER), we adopted the theme The Year of the Soldier and emphasized initiatives that would directly assist our deployed forces. We are aware of the challenges they face in Iraq and Afghanistan and want to do everything we can to make conditions safer for them and to make it possible for them to be ever so effective. An important element in the committee's Year of the Soldier theme is force protection, and that is a concern that influenced all we did this year.

We have taken a number of actions in this bill to provide the resources and direction to better equip our men and women who are serving selflessly in dangerous conditions overseas. In this bill, we provide for our valiant warriors in the Special Operations Command. We have authorized funds, for example, for several items in the SOCOM commander's unfunded requirements priority list and have authorized additional funding that would provide some necessary operational flexibility for special operations forces on the ground.

We continue to believe that the best way to fight terrorism is to keep terrorists far from our shores. I continue to believe that the Special Operations Command is one of our most effective weapons in this mission. This bill bolsters the command's capabilities in several ways.

Next, the bill provides increased funding to accelerate the development and fielding of advanced technologies for emerging critical operations needs, including projection of our forces against improvised explosive devices and rocket and mortar attack and to provide real-time surveillance of suspected enemy activities.

I could add here, Mr. Chairman, there is a very strong provision which we added late in the game because at a hearing on April 21 it became apparent that it took just too long to field new kinds of technologies. We have provided a special program to provide capabilities for the chief of staff of the Army and his staff to provide in a more quick fashion the capabilities that are needed by our soldiers.

In addition, this bill provides increased funding for combating terrorism in terms of technological support to accelerate the development and fielding of advanced technologies for the fight against terrorism.

Finally, we continue to expand our successful initiative of last year to develop chemical and biological defense countermeasures.

Mr. Chairman, I would be remiss if I did not say a word about something that we are doing for those who have fought in previous wars. We have found the resources this year to add $7 billion over a 10-year period to bolster and bring up to date the survivors benefit program that retired individuals and their spouses are able to avail themselves of.

□ 1500

We move the percentage of survivors benefits, that is, generally widows, from a 35 percent level to a 55 percent level.

This SBP program is an extremely important program because what happened was that in the past, when a member who served in the military passed away, his surviving spouse, usually, of course, his widow, would receive 55 percent of his retired pay up until she turned 62 and then that percentage would drop to 35 percent.

We have fixed that in providing $7 billion over 10 years to bring that 35 percent back up over a 4-year period to the 55 percent level. This is important. It is a way of saying thank you to those who have served our country and is a very important part of our bill.

In closing, I just want to express my appreciation to the members of the Terrorism, Unconventional Threats and Capabilities Subcommittee, who contributed so mightily to this bill, and particularly thank the gentleman from Massachusetts (Mr. MEEHAN), the ranking member, with whom I have worked closely over the years.

This is an excellent bill. I congratulate the chairman for bringing it here. I urge all Members to vote ''yes'' on this bill.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from New

York (Mr. ISRAEL), a member of the committee.

Mr. ISRAEL. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong support of this authorization. And, of course, we have to give credit where credit is due, and that is to the gentleman from California (Mr. HUNTER), chairman, and to the gentleman from Missouri (Mr. SKELTON), ranking member.

This bill includes funding for transformational weapons systems that will help our military meet the challenges of the 21st century, billions of dollars for new naval destroyers, Army combat systems, and fighter aircraft programs.

These programs may be worthwhile, but I remember back in January when I was on a C–130 traveling from Kuwait to Baghdad, a member of the 1st Armored Division looked at me and said, Congressman, you have got to do something about these improvised explosive devices, these roadside bombs. They are the biggest threat that we face.

There has been a lot of talk in Washington about countering these threats with hardware, with systems that are lighter and leaner and faster, more precise, more agile, more lethal; and I understand the need for that hardware transformation, but we also need a software transformation. Our committee had Major General Robert Scales before us, he is the former Commandant of the U.S. Army War College; and he talked about the fact that our troops have exquisite situational awareness, but we need to invest them with more cultural awareness.

They know where every tank is, their speed, their direction, their firepower, how they are arrayed. What we need to make sure of is that they know who is in the tank, what language they are speaking, not just their firepower but their willpower. And that is why I want to thank our chairman and ranking member for including in this authorization two amendments that I offered which will establish a Defense Language Office within the Department of Defense and require the Secretary of Defense to assess the military's foreign language and cultural awareness capabilities. Those skills are just essential to success in the future.

Mr. Chairman, it is indisputable to us that our current forces are doing an extraordinary job of adapting to challenges on the ground. They deserve defense budgets that anticipate 21st century changes, not Cold War challenges. They deserve defense budgets that value their minds as well as their arms. And I want to again thank the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), ranking member, for including the amendments that I proposed in this authorization; and I urge the other body to accept those amendments.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the very distinguished gentlewoman from Texas (Ms. GRANGER), who has great expertise in the area of defense.

Ms. GRANGER. Mr. Chairman, I rise in strong support of the National Defense Authorization Act for Fiscal Year 2005. I want to commend the gentleman from California (Chairman HUNTER); the gentleman from Missouri (Mr. SKELTON), ranking member; and the entire committee for bringing this bill to the House floor at this crucial time for America's Armed Forces. The committee had to balance many difficult needs and did a great job.

The last several months have been very difficult for our men and women serving in the United States military. The actions of a few at Abu Ghraib Prison in Iraq must not reflect badly on their fellow soldiers, sailors, Marines and airmen serving so bravely in the war on terrorism. The barbaric murder of an American civilian captured on videotape has reminded us of the true nature of our enemy and why we must win this war. Our troops are on the front lines fighting this war for each and every one of us, and they deserve our full support and gratitude.

By passing the defense authorization bill this week, the House of Representatives will send a strong message of support to our troops and a resolve to friends and enemies across the globe. We must stand firm and continue our fight against terrorism. There is no more important battle today.

The bill authorizes over $420 billion for the Department of Defense and the national security programs at the Department of Energy. It includes many important provisions for our troops, their families, and America's veterans.

The bill also authorizes an additional $25 billion in supplemental funding to ensure that our men and women fighting in Iraq and Afghanistan will have all the resources they need.

Finally, the bill funds many important weapons programs that will ensure our military strength for decades to come. I want to focus on some of those critical weapons programs: the F–34 Joint Strike Fighter, the F/A–22 Raptor, and the V–22 Osprey.

The F–35 Joint Strike Fighter, or JSF as we call it, will be the prime multirole fighter for the Air Force, Navy, and Marine Corps for the 21st century. The defense authorization bill fully funds the President's budget request for continued development of the JSF.

The basic JSF design, with several modifications to meet each service's needs, will be used for all three services. The aircraft will have the best next-generation avionics, weapons systems, and stealth capabilities. It will also have dramatically increased range over our current fighters. We simply must continue to develop the Joint Strike Fighter, and the underlying bill fully supports the program.

The F/A–22 Raptor is the Air Force's state-of-the-art, next-generation fighter aircraft. As with the JSF, the committee has fully funded the President's request for the F/A–22. Specifically, the bill includes funding to build 24 new F/A–22s over the next fiscal year.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. REYES), ranking member on the Strategic Forces Subcommittee.

Mr. REYES. Mr. Chairman, I thank the ranking member for yielding me this time, and I thank our chairman for always working together in a very strong bipartisan manner on this very important committee as it involves the national security of our country.

Mr. Chairman, the Strategic Forces Subcommittee has jurisdiction over some of the most contentious and controversial issues considered by the overall committee, including ballistic missile defense and nuclear weapon development programs. While we did not reach complete bipartisan accord on these two issues, the subcommittee and the committee generally had substantive and cordial debates on all of these matters.

I am somewhat disappointed, Mr. Chairman, that even though the bill contains $10 billion for various ballistic missile defense programs, no amendment was made in order to allow for legitimate debate and a vote on important policy issues related to those programs.

I am, however, pleased that we will have an opportunity to debate the wisdom of developing new nuclear weapons. The mark contains the President's budget request for both the Robust Nuclear Earth Penetrator and an initiative to study new nuclear weapons designs called Advanced Concepts. I will encourage my colleagues to vote in favor of the Tauscher amendment which would transfer these funds to a more realistic and conventional alternative to ''bunker busting.''

Our committee reached bipartisan agreement on the space programs within this mark. We reduced funding for the Transformational Satellite Communications program by $100 million and prevent the Air Force from downselecting a prime contractor on space-based radar until they provide a report to Congress. Members on both sides of the aisle are concerned about the affordability and the technological readiness of these programs.

Overall, the mark of the Strategic Forces Subcommittee is one that I support. I am especially pleased that we were able to reach a bipartisan agreement to add funding for THAAD, which is critical and important to better protecting our troops in the field of theater-range ballistic missiles. I want to thank the gentleman from Alabama (Mr. EVERETT), my partner and my chairman, for his leadership on this issue and our subcommittee in general. Even on those areas where we disagree, he has always been a straightforward and fair individual, and it has been a pleasure to work with him.

I also want to state today my concern about the number of troops in our armed services. I am pleased that the

bill increases the end-strength levels for the Army and Marine Corps over the next 3 years, but I remain concerned that this surely is not enough. Simply put, we do not have enough troops to sustain our commitments around the world, facing the current challenge. We are starting to crack around the end-strength issue, and this may be an indicator that we may have to reevaluate and reprioritize the various theaters.

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

I want to thank the gentleman for his hard work and the fact that he has been in Iraq and Afghanistan more than any other member, which is very important to this committee.

Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. BARTLETT), the very thoughtful chairman of the Projection Forces Subcommittee.

Mr. BARTLETT of Maryland. Mr. Chairman, before proceeding, as chairman of the Projection Forces Subcommittee, I believe it appropriate to first underscore the magnificent service rendered the Nation by the men and women serving in our Armed Forces around the world. We have called upon them and continue to call upon them to be ready to make the ultimate sacrifice in their service to the Nation. They continue to meet every challenge with true dedication and commitment. We thank each and every one of them for their service, and we thank all Americans for their unwavering support of our servicemen and women.

History has repeatedly taught us that peace is only achieved through strength. We have sought to apply the lessons learned from the ongoing war on terrorism and operations in Iraq and Afghanistan to the committee markup of the National Defense Authorization Act for Fiscal Year 2005, in order to strengthen our Armed Forces.

Oceans cover three-fourths of the Earth's surface. The vast majority of the world's population lives within 2 miles of a seacoast. Seventy percent of our trade moves by sea. Clearly, maintaining America's naval superiority is an imperative, not an option.

I am pleased to report that the National Defense Authorization Act that we will consider increases the requested authorization for Department of Defense programs within the jurisdiction of the Projection Forces Subcommittee by $890 million; $296 million of the additional authorization is for programs on the military service chiefs' unfunded requirements list.

Authorization is included for the administration's request of one Virginia Class submarine, three DDG–51 destroyers, one LPD–17 amphibious assault ship, and two cargo and ammunition ships.

We have also taken several initiatives to begin to address shortfalls in important requirements of the Department of Defense. All of these programs are viewed as critical enablers for operations in Iraq and Afghanistan.

These programs include $150 million additional authorization to begin development of the amphibious assault ship replacement; $96 million as the fiscal year 2005 increment to begin the regeneration process to restore 10 additional B–1s to combat-ready condition; $98 million to upgrade the fleet of B–2 bombers; $100 million to continue a next-generation bomber program to replace the now 42-year-old B–52 bomber fleet; $95 million to begin the recapitalization of the Air Force's aging aerial refueling tanker fleet; and $23 million to complete development and evaluation of the Affordable Weapon System, a low-cost cruise missile that is the successful result of an Office of Naval Research advanced technology initiative to demonstrate the ability to design, develop, and build a capable and affordable precision-guided weapons system at a cost that would be an order of magnitude cheaper than comparable weapons systems; and increased authorization for several procurement and research and development programs of the services.

In addition, the recommended mark includes important legislative proposals: to accelerate the DDG–51 Aegis guided missile destroyer modernization program; and to establish an independent body of manufacturing experts to find ways to again make the United States shipbuilding industry competitive. Ad hoc government policy and business management adjustments to reductions in the fleet from 600 to less than 300 are not adequate or acceptable to make the necessary short-term and long-term decisions to maintain the capacity and capability of this critical and complex industrial base. Once lost, that industrial base cannot be easily reconstituted.

This study will rigorously analyze all of the relevant factors and make recommendations to ensure the capability of America's shipyards to build the ships for our Navy and to be competitive against other shipyards in the global marketplace.

While there is much more to do, the National Defense Authorization Act for Fiscal Year 2005 is an important step in making our country more secure. I urge all of my colleagues to support this bill.

I would like to thank the gentleman from Mississippi (Mr. TAYLOR), the ranking member of our subcommittee, for his extraordinary partnership, dedication, and support in completing this bill. I would like to thank all of my other colleagues on the subcommittee for their diligence, commitment, and hard work.

I would also like to thank the gentleman from California (Mr. HUNTER), our chairman, for his leadership; and the gentleman from Missouri (Mr. SKELTON), our ranking member.

In conclusion, I would especially like to thank and recognize the contributions of the many staff members for their invaluable assistance in preparing H.R. 4200.

□ 1515

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. TURNER), the ranking member of the Select Committee on Homeland Security and a member of the Committee on Armed Services.

Mr. TURNER of Texas. Mr. Chairman, I would like to thank the chairman and ranking member of the Committee on Armed Services for their leadership on this bill today.

Mr. Chairman, I rise in support of our troops and in support of this defense authorization bill, but I urge my colleagues to be up front with the American people about the true cost of our operations in Iraq. The supplemental $25 billion included in this bill for operations is not enough. We all know that at the rate we are spending money in Iraq, this will only last a few more months.

Democrats on the Committee on Armed Services unanimously supported a $67 billion authorization to ensure we can do what is necessary to provide stability in Iraq, and we have been denied the opportunity to have a vote on this issue on the floor by the Committee on Rules.

To accomplish our goal in Iraq, we need additional troop strength; we must commit whatever is necessary to force protection; we need to increase recruiting and training for the Iraqi military and police forces; and, finally, we need a bold and urgent plan that gives the Iraqi people the opportunity to determine their own destiny.

We have set a June 30 deadline for the handover of political authority to the interim Iraqi Government. The President has correctly said we must keep this deadline. Deadlines are important motivators; they give purpose and direction and urgency to both planning and execution. The Iraqi people must also keep the deadline to adopt a permanent constitution on or before October 15, 2005.

It is equally clear that we should also establish a clear and unambiguous deadline of December 31, 2005, to turn over complete responsibility for peacekeeping to the Iraqi civilian police and the Iraqi military. Thereafter, we should commit, if invited by the new government to participate in an international advisory group, to assist the Iraqi people in a successful transition to stability and democracy.

The Iraqi people are capable, resourceful, and educated; and we know that stability can be achieved with hard work and strong commitment. We can and should encourage and support democracy in Iraq; but in the final analysis, the Iraqi people must choose democracy and a form of government fashioned by their own history, their own values, and their own initiatives.

Our brave soldiers and the American people have already and will continue to pay in blood and treasure to achieve this goal. A clear timetable will more likely achieve a successful outcome. Both the people of America and the people of Iraq deserve no less.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama (Mr. EVERETT), the chairman of our Subcommittee on Strategic Forces which oversees our nuclear component, space assets, and many critical aspects of national security.

(Mr. EVERETT asked and was given permission to revise and extend his remarks.)

Mr. EVERETT. Mr. Chairman, first of all, let me say how much I enjoy being on this great committee. There is not a member of this committee that is not interested in serving the American fighting man and woman. We owe much of our attitude to our great leadership from our full committee chairman, the gentleman from California (Mr. HUNTER), and our ranking member, the gentleman from Missouri (Mr. SKELTON). I would be remiss if I did not also note it is a pleasure for me to work with my ranking member and partner, the gentleman from Texas (Mr. REYES). He has made great contributions to this markup.

Mr. Chairman, ongoing operations in Iraq and against terrorism at large call for a fresh look at military requirements. These lessons learned illustrate that today's defense forces must be powerful, versatile, and be able to deploy globally with great speed.

Moreover, our national security investment must continue the development of transformational capabilities of future systems. Given that, this bill supports the administration's objectives while making significant improvements to the budget request and incorporating the chairman's theme of supporting the war fighter.

Mr. Chairman, the Subcommittee on Strategic Forces' effort continues to fund missile defense, military space and atomic energy programs. As we quickly approach the deployment of the Nation's first national missile defense capability later this summer, this bill fully funds the GMD system.

In the area of military space, the bill shifts funds from longer-term follow-on systems to more near-term capabilities, including the Operationally Responsive Satellite and the Advanced EHF Satellite. The bill adds funding for the SBIRS High program and ensures sufficient technological maturity for the Space Based Radar and the TSAT program.

Within Atomic Energy Defense Activities, the bill funds the National Nuclear Security Administration at the budget request. The bill includes modest reductions for directed stockpile work and campaigns while adding $50 million for infrastructure upgrades that are badly needed. The committee recommends $5.88 billion for defense site acceleration completion, an increase of $62 million over fiscal year 2004.

Mr. Chairman, the committee's recommendation addresses the administration's objectives, many of DoD's unfunded requirements, and Member priorities. I urge my colleagues to support this important legislation.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member on the Committee on the Budget and also a distinguished member of the Committee on Armed Services.

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Chairman, first of all, I commend my good friend, the chairman. We do not agree about everything; nevertheless, I hope that is not a sign of what is about to come. He does a wonderful job of chairing the committee, and he has brought to the floor a good piece of legislation. We thought it could be better. I wish there were more amendments in order, but I do not want to diminish the significance of what is in the bill.

Mr. Chairman, with troops in the field being bombed and shot at, we cannot be stinting about what we provide our troops. We have got to give them the resources they need to do the tough tasks that they have taken on. But with the defense bill before us running at a level of $422 billion, that is an increase of $125 billion in 3 years, and with the costs of our operations in Iraq alone approaching $200 billion by the end of next year, military and economic reconstruction, Congress also cannot relax its oversight responsibilities and we should not rubber-stamp what the administration sends us.

That is why I thought more of the 100-odd amendments we offered should have been made in order. We could have a good, full debate on the House floor about priorities. That is why I wanted to take the ballistic missile defense account, which the administration wants to increase by $1.2 billion, to make it twice as big as any other program in the procurement and R&D accounts; why I wanted to take just a little bit, $400 million off the top of that, leaving an increase of $800 million; take a little off the top of that and then spread it to someplace else in the budget where I think it would do a lot more good, and that is in compensating the backbone of our military services, our NCOs and warrant officers, with a pay raise above the level provided other troops, at least in the rate of increase.

In addition, I wanted to provide $25 million to $50 million, that is all, so we could say to every troop we send into combat, Uncle Sam will pick up the premium and we will see to it that every one of you has $250,000 of group life insurance.

Now, there are some good things in this bill, as I said. I want to congratulate the chairman for leaning on DoD to send us a supplemental, because we were sailing into the next year under the artificial representation that we had enough money and we could move it around and we could get to the next calendar year. We cannot do it.

But I do not think we should give the administration a blank check, and, to a great extent, we have not done that; and I commend the chairman for that. We have provided some line item specificity in title 15 of this bill. We have also, in response to the administration's request for transfer authority, we said to them you can have transfer authority for $3 billion, but not for $25 billion. All of that is an improvement over the request.

But nobody should think that $25 billion is going to get us through the year. We will be lucky if it takes us to March. That is because we are spending $4 billion to $5 billion easily every month in Iraq; it is not likely to go down. We are spending $700 million to $900 million every month in Afghanistan; it is not likely to go down. We are spending $500 million a month for Noble Eagle, United States air defense and other things like that. It is close to $6 billion a month.

The arithmetic is easy, even on the back of an envelope. $6 billion times 12 months is $72 billion. We have only provided $25 billion of it. We could easily have another supplemental coming in 2005 of $50 billion.

That is why I want to remind everybody of the budget. It just so happens we are going to have the defense bill back to back with the budget; and let us keep in mind when the administration talks about runaway spending, the increase in spending in the budget, that much of it is occurring in the defense accounts. That is not to diminish or damn the amount of money that is being spent there; it is essential. But it also gets added into the calculation, and it is having an impact.

If you look at current services for everything in the discretionary budget and look at the spikes that are really standing out, what you will find is that 90 to 95 percent of the increase in discretionary spending over the last 4 fiscal years, every year has either been defense, homeland security, and our response to 9/11.

Quickly, let me show you a chart that is almost too much to read from this perspective. Basically, what we show here is the FYDP, the Future Years Defense Program, run out of 10 years, when Mr. Bush came to office was about $3.6 trillion in 2001. If you include what he has added, plus the costs just through this year of Iraq, it is about $4.6 trillion. If you go back and make some reasonable adjustments for policy changes in procurement and also add in the cost of Iraq and Afghanistan after 2005, you are easily up to a $1.5 trillion increase in spending.

Mr. Chairman, what I am saying is that we cannot forget the budget; we cannot forget the deficit. It has a huge impact on the economy. The economy is the first instrument of our national defense.

Secondly, sooner or later, if these costs keep running at this level, we have got to turn to the American people and ask more than our troops to share the sacrifice; we have to ask the American people to pick up some of the

costs that we are running here for our defense and homeland security. The bill has to be paid sooner or later, the day of reckoning is coming, and we are only postponing it with the budget we will take up after this bill is considered today.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. MCKEON), a very distinguished member of the committee.

Mr. MCKEON. Mr. Chairman, I rise today in strong support of H.R. 4200, the National Defense Authorization Act For Fiscal Year 2005.

First, I would like to commend the gentleman from California (Chairman HUNTER) and the ranking member, the gentleman from Missouri (Mr. SKELTON), for their leadership in bringing this good bill to the floor. The gentleman from California (Mr. HUNTER) was referred to this morning in our conference as the troop's chairman, and I think that is exactly what he is; and he has brought a bill that is great for the troops.

Mr. Chairman, hundreds of thousands of brave American soldiers, including mothers, fathers, sisters and brothers, are fighting to protect our freedom and liberty throughout the world; and we owe it to them and to their families to pass this bill today.

The cornerstone of H.R. 4200 is the $2 billion plan to equip our troops with the latest and most state-of-the-art safety equipment, including body armor, armored Humvees, and armor add-on kits for thin-skinned vehicles.

Many times the best and most innovative of these technologies are developed by our Nation's small businesses who are able to produce cutting-edge military equipment at a lower cost. That is why we have included language in the bill to encourage the Department of Defense to provide greater consideration to the advantages and innovations offered by small business.

The bill also directs the Department to award more contracts to small businesses through broader utilization of phase 3 of the Small Business Innovative Research Program. I thank the gentleman from California (Chairman HUNTER), the gentleman from Pennsylvania (Chairman WELDON), and the committee staff for working with me to include this language in the bill.

I cannot overstate the strong impact that small businesses have on the Department of Defense. Our country's small businesses are the engines of American technological innovation, and they will significantly enhance the ability of the American war fighter and help save many lives.

Mr. Chairman, H.R. 4200 is a solid bill which focuses on protecting our troops on the battlefield and strengthening our support for them at home. It contains several other provisions that I support, including a solid pay raise for our troops, increases in their hardship pay, and elimination of their out-of-pocket expenses for housing, among other things.

□ 1530

This package is the least we could do for our brave men and women of the Armed Forces who risk their lives every day to protect America and our freedoms around the world. I urge all of my colleagues to vote ''yes'' on H.R. 4200.

Mr. SKELTON. Mr. Chairman, I yield 3½ minutes to the gentleman from Mississippi (Mr. TAYLOR), the ranking member of the Subcommittee on Projection Forces.

Mr. TAYLOR of Mississippi. Mr. Chairman, the young men and women who serve in our Nation's Armed Forces are not Democrats, they are not Republicans; they are Americans. And I am happy to say that I feel like the package that was put together was not put together by Democrats or Republicans, but by Americans who care about our Nation's defense. And I think it does some very good things.

First and foremost, I would like to commend my colleague, the gentleman from Colorado (Mr. HEFLEY) for his efforts in working with us to delay the next round of base closures. As we have pointed out, we are growing the Army. Almost everyone in the Army is spoken for. They are either in Iraq, just got home from Iraq or getting ready to go to Iraq.

This is a time of great uncertainty, and we do not need to further complicate that uncertainty by closing bases with a number that was artificially picked prior to September 11.

It is my understanding that there will be efforts to put the next round of base closures back into the bill. I would encourage my colleagues to vote against that. We have come to a very fair compromise when people like me, who would just as soon do away with BRAC entirely, and a level head like the gentleman from Colorado (Mr. HEFLEY) said, we should delay it. And I support that delay.

We should continue to work and we continue to work on programs that protect our troops. With things like up-armored Humvees, with things like jammers to prevent improvised explosive devices from unnecessarily taking the lives of young Americans. We have worked to provide hazardous duty pay for those people whose primary military mission is fire-fighting.

As my great colleague from Maryland has said, we have taken several significant steps to help our Nation's Navy and shipbuilding programs with three destroyers, a submarine, an amphibious cargo ship, an amphibious assault ship for the Marine Corps, and the LHD, which is also an amphibious assault ship for the Marine Corps.

We have taken steps to limit the amount of foreign flag vessels that can be leased by our Nation's Navy. Again, my chairman, the gentleman from Maryland (Mr. BARTLETT) is doing a great job of trying to revitalize American shipbuilding. We do not help that one bit when we go out and lease foreign-flag vessels. They should be made here in our country, instead of being built and leased from overseas.

We have worked, and again, I want to compliment all of my colleagues, I think this passed unanimously, to fix the problem with the survivor benefits program where the widows of the people who served in our Nation's military were not given what they were promised. Their retirement benefit was reduced by their Social Security. That should not be the case and I commend everyone who worked on that, in particular, my friend from Pensacola, Florida (Mr. MILLER), who is a sponsor of that amendment.

The last thing I would like to mention to my colleagues is, we are indeed at war. Over 700 young Americans have lost their lives in Iraq. More, including a great football player, have lost their lives in Afghanistan; and we are truly blessed by every single person who chooses to serve our Nation in its Armed Forces.

I would point out that in just a little while we will be having a vote on the conference report to our Nation's budget. And I would like to ask my colleagues, in addition to supporting this bill, to keep in mind that those who are fortunate enough not to have to fight in this war ought to, at the very least, be willing to pay for it now, not with borrowed money and not with sticking future generations of Americans with a bill that we are not willing to pay.

So I would encourage Members to vote for the defense authorization bill. I would encourage Members to vote against bringing BRAC back into this bill; and I would encourage Members to vote against the budget that does not pay for this bill with today's dollars, but pays for this bill with borrowed money that our children will have to pay.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman who just spoke for his hard work on this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Chairman, I want to thank the chairman for yielding me time and for his leadership on bringing this very important legislation to the floor.

This legislation supports our American men and women in uniform and it helps give them the tools to defend the freedoms that we all hold so dear and to keep our country safe. Specifically, I want to thank the chairman for his wisdom in investing $830 million approximately in Humvee production.

Humvees are manufactured in my district in Mishawaka, Indiana, by AM General. The men and women at AM General certainly do a tremendous job in manufacturing this very effective tool in the war on terror. And the investment in this production is certainly good for the 2,500 employees at AM General, it is good for our local economy, but most importantly, it provides a force protection tool for our soldiers that saves American lives.

As an example, about a year ago I went to Bethesda Naval Hospital and I met with a young Marine who had been injured in combat in Iraq. He told the story of the Navy corpsman, after he was hit, that dragged him to safety between two Humvees that were strategically placed in the battlefield.

Just 2 weeks ago I met another Marine that had lost his right arm in combat in Iraq. I flew to my district with the President, and as the President stepped off the plane, the Marine shook his hand and told him the story about how he owed his life to the fact that he was in an up-armored Humvee when he was injured.

It is because of thousands of stories like this that I urge my colleagues to support H.R. 4200, because it does exactly what it should do. It provides our troops with the tools they need to win the war on terror and supports them in their efforts so they can be successful.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. SNYDER), the ranking member on the Subcommittee on Total Force.

Mr. SNYDER. Mr. Chairman, I rise in support of this good bill. This is a bill that will help the quality of life for both our service members and their families. It is a bill for the troops. It is a bill for their families.

I know that as a Nation and as a Congress we have ongoing disagreements and discussions about our national security policy, about Iraq, about issues all around the world; but while we are having that debate and in this discussion, this bill was put together that I think accounts for the unanimous support of the committee, 60 to zero, with people who are on different sides of these many issues, because it is a bill for the troops and their families.

I wish it could have been a better bill, and I think it could have been a better process had we, as a House, today voted to let more than 100 Members have amendments on the floor that were denied the right to be heard. But I do appreciate the work of the chairman of the Subcommittee on Total Force, the gentleman from New York (Mr. MCHUGH) as well as the gentleman from California (Mr. HUNTER), the chairman of the committee.

I know it is a good process when the chairman of the committee does not win all of his amendments during the committee process this year. I think we had a full and vigorous debate. Of course, I appreciate the work of the gentleman from Missouri (Mr. SKELTON), our ranking member.

It is a bill for the troops. It will provide a 3.5 percent pay raise for the troops, which is a half percent more than the average private sector pay increase. It also eliminates out-of-pocket housing costs for service members and their families. It provides a permanent increase in imminent danger pay and family separation allowance, as well as increases the hardship duty pay from $300 to $750.

It includes providing active duty tuition assistance to Reservists who are mobilized, and it also makes permanent the TRICARE coverage for mobilized Reservists 90 days prior to activation and 180 days of transitional assistance following their separation from service.

I was also glad to see the great work done by the committee on the survivors benefits program. I would like to acknowledge two Members who are not members of our committee, the gentleman from Florida (Mr. MILLER) who had the bill's sponsor to change the survivors benefit program, and the gentleman from Texas (Mr. EDWARDS), a former member of the committee, who also did good work on advocating on behalf of changing that program. I think that will help a lot of spouses of military retirees who have lost their mate. It is a very important issue.

Finally, I want to say in conclusion, I do support this bill; however, I think we should have allowed more time and had more amendments. It is particularly distressing on a committee in which we talk about our bipartisanship, that some of the most senior and experienced members, such as the gentleman from South Carolina (Mr. SPRATT) and the gentleman from Missouri (Mr. SKELTON) and his recommendations for amendments were denied an opportunity.

We had a bipartisan amendment. The gentleman from North Carolina (Mr. PRICE) and the gentleman from Connecticut (Mr. SHAYS), who had an amendment, both senior Members, not of the committee but of this Congress, were denied a right to be heard on the House floor today and tomorrow on their amendment. It would have been a better process and a better bill if that had gone forward.

But I do support the bill and urge other Members to do so also.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from Arkansas (Mr. SNYDER) for his hard work on the bill.

Mr. Chairman, I yield 3½ minutes to the gentleman from North Carolina (Mr. HAYES), a gentleman with a real heart for our soldiers.

Mr. HAYES. Mr. Chairman, I want to recognize my good friend, the soldiers' chairman, the gentleman from California (Mr. HUNTER) for everything he has done to bring this bill together that supports our troops.

I rise today in support of H.R. 4200, legislation we have crafted in the Committee on Armed Services that focuses on force protection and personnel benefits, designating 2005 as the Year of the Troops. For the soldiers and airmen in my district at Fort Bragg and Pope Air Force Base, the ability to adequately execute the mission for which they are called and care for their families are the two issues that are second to none.

I believe this legislation makes significant progress in these areas and will enable our men and women in uniform to continue successfully prosecuting the war on terrorism.

A trip to Iraq this past March, the second I have made, did nothing but reinforce my pride in our Nation's warfighters. These brave men and women served with honor and distinction as they liberated a nation. Troops from the 8th district of North Carolina have been at the very tip of the spear that ended the dark reign of Saddam Hussein and continued to lead the way in postconflict resolution in Iraq and Afghanistan.

This legislation, first and foremost, takes care of our most vital asset, our military, our people. It provides every service member an across-the-board 3.5 percent pay raise and increases the force structure of the Army and Marine Corps. It also boosts the maximum amount of hardship duty pay and eliminates out-of-pocket housing expenses. Furthermore, it closes the gap that some deployed Reservists and members of the National Guard face when their military pay is less than their civilian pay.

It is the first time in history that steps have been taken to replace income loss while Reservists are away from their civilian jobs. Currently, about 3,500 members of the North Carolina Guard are deployed in support of Operation Iraqi Freedom, the largest deployment in our State's history. It is vital that we take every measure to care for their families while they are away.

I am also happy the committee is urging the Department of Defense to consider programs being proposed at the University of North Carolina and others to help ease the hardship of these families and what they face.

Additionally, I would like to mention the direct effect this legislation will have for men and women at Fort Bragg and Pope. There is almost $200 million for infrastructure and housing improvements at these two installations. It includes $10 million more than was in the President's request for a barracks complex at Fort Bragg. I worked hard to secure this funding, along with others, because it will help improve the living conditions of the 16th MP brigade, the unit that spent many months in Iraq.

The National Defense Authorization Act addresses other critical issues, fortifying the defense industrial base, ensuring the Department of Defense purchases products that are made in America. My top two priorities are national security and economic security. There is seldom, if ever, a reason that these two goals should be considered mutually exclusive. I have vowed to always work to protect and promote the U.S. manufacturing industry, and we must develop transparency within the DOD procurement process.

Providing visibility on the Berry amendment, which stipulates domestic sourcing requirements, is crucial and is in this bill. This is vital to protect our workers and our soldiers and our national security, and it is just as important to protect our economic security here at home.

The gentleman from California (Mr. HUNTER) has worked so hard to provide this, and I thank him again.

Mr. Chairman, this is a great bill. It supports our wonderful men and women in uniform. I urge our most enthusiastic support.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ), a member of the Committee on Armed Services.

Ms. LORETTA SANCHEZ of California. Tailhook, Aberdeen, Air Force Academy rapes, rapes in the Pacific theater, rapes in the Iraqi theater.

Mr. Chairman, I rise today to talk about what is not in this bill. A sensible, conservative legislative initiative that would have made it easier for the military to prosecute sexual assault offenses in the armed services.

The majority prohibited me from offering an amendment that would have made this vital change to the Uniform Code of Military Justice. It would have replaced a woefully outdated statute currently being used by the military to prosecute sexual assault with a version we use at the Federal level, title 18, used also in 37 other States, that was approved by this body 18 years ago.

The current military mechanism for prosecuting sexual assault was written in the 1950s, and it really does not reflect today's reality. My bill would have emphasized the acts of the perpetrator, rather than the reaction of the victim during an assault, which is an all-too-common complaint within the military justice system.

□ 1545

It would have expressly provided for cases involving voluntary and involuntary intoxication of the victim, which are common fact patterns in military sexual assault cases.

It would have expanded the definition of sexual abuse to include a broader scope of sex acts.

It would have also included a provision which specifically relates to the sexual abuse of a prisoner, unlike the current UCMJ. This provision is particularly timely given the tragic incidents which have occurred in Abu Ghraib prison.

We are facing a sexual assault crisis within our armed services. Our women and our men are being raped in Iraq. The Army currently has investigations of 110 counts of sexual abuse in Iraq and Afghanistan.

Some say this is combat-related stress. Well, in March of this year, the Air Force reported that it is investigating 92 reports of rape in the Pacific. Those troops are not in combat.

In a report released by the Department of Defense just this week, it was reported that across the Department of Defense there were 901 reported cases of rape in 2002 and over 1,000 in 2003. Now, I think that is a problem, and the Pentagon obviously thinks it is a problem, also.

So this would be an opportunity to make some positive changes on this issue because it is our job as Members of Congress to provide oversight of the executive departments of this Nation. It is our responsibility to provide assurances to men and women in uniform that they are safe and that when crimes are committed, our laws assure that justice will be served.

I am disappointed that my amendment is not being considered today. I think it is a disservice to the military men and women of our Nation.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. MILLER), the gentleman who is the author, the father of this great benefit package for military survivors that was embedded in this bill and is good news for hundreds of thousands of families.

Mr. MILLER of Florida. Mr. Chairman, I thank my chairman of the full committee for the time; and, Mr. Chairman, I proudly rise today in support of H.R. 4200, our National Defense Authorization Act of 2005.

As the chairman said, this legislation fully restores the survivor benefit plan annuity to what was promised to America's surviving spouses, and I applaud my Committee on Armed Services colleagues for bringing a quarter of a million military widows and widowers one step closer to seeing increases in their monthly checks next year. This is a Defense authorization measure which this entire body can be proud of.

Since coming to Congress, I have been working on this issue of particular interest, restoration of the minimum survivor benefit plan basic annuity to 55 percent for those survivors aged 62 years of age and older. Under present law, surviving spouses are subject to a reduction to 35 percent as part of the initial SBP law that was enacted in 1972, but this critical piece of information did not find its way into military retirement briefings and to the SBP election forms until many years later.

Here is a 1982 election form. Nowhere will my colleagues find in this form the offset mentioned. Survivors have felt betrayed by this bait-and-switch; and at 35 percent, SBP provides only a poverty-level or lower annuity to most survivors, even those of relatively senior officers.

For nearly 3 years, we have worked with members of the committee, my colleagues on the Committee on Veterans' Affairs and numerous VSOs, to introduce SBP bills that will bring the needed equity. Both bills that I have introduced in Congress have received strong bipartisan support with over 300 Members sponsoring one or both measures, and I am proud that this committee has produced SBP reform that exceeds even my greatest expectation.

H.R. 4200 will fully eliminate the so-called ''widow's tax'' by April 1, 2008, in under 5 years. I thank the gentleman from California (Mr. HUNTER) and the first rate Committee on Armed Services staff who literally worked round the clock to make this happen.

Once again, our Nation is calling upon the members of the U.S. Armed Forces to defend democracy and freedom. We have no doubt that these brave men and women will rise to the challenge. However, for those who have selected to make their career the U.S. military, they face an unknown risk.

This giant leap forward sends a clear message to the men and women who have provided our national defense. Today, we are a grateful Nation, and this Congress is making good on our promises to our Armed Forces. This battle has been hard fought, and its victory is shared by so many whose efforts have been tireless and unrelenting.

I thank my colleagues who have stood by me to realize this victory.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Tennessee (Mr. COOPER), a member of our Committee on Armed Services.

Mr. COOPER. Mr. Chairman, I thank my friend, the gentleman from Missouri, for yielding me the time.

Mr. Chairman, unfortunately, we will not be allowed to debate the true cost of this war. That is ironic because I think most Americans, whether they are for or against the conflict, at least want honest answers from this body. They want to know what the real casualty rate is, something that, unfortunately, Secretary Wolfowitz could not recall in a hearing the other day. They also want to know about the dollars and cents.

In the first Iraq war, which I proudly supported, the American taxpayer really did not have to pay even $10 billion for that war. This cost is already approaching $200 billion. That is not necessarily a bad thing because I think most Americans not only support the war; they want us to win and bring our troops home safely.

Here with this bill, despite the many fine things that are in the legislation, most every Member of this House, Republican or Democrat, has already voted for a budget which contained $50 billion for our troops, $50 billion, five zero billion dollars. But what is in this bill? $25 billion dollars for the troops. Why the difference? Why the difference?

Actually, the $25 billion is a partial victory, and I congratulate the chairman because, before, the White House did not want any money in the bill for the troops in Iraq or Afghanistan. They wanted that to be handled entirely separately. So, finally, we have an acknowledgment of $25 billion.

But is Iraq safer than it was a few months ago? Is that why the number is less than the $50 billion that we have all already supported? No. Iraq is more dangerous than it was before.

I am worried a false impression is being created here. There are many good things in this legislation, but when it comes to funding Iraq and Afghanistan, we are pretending with this

bill, and we are allowing no amendments to this section, we are pretending that the cost is $25 billion.

This $25 billion is pretty curious because it really does not kick in until October 1 of this fall, the new fiscal year; and then it will last us a whopping 3 or 4 months, so that our men and women in uniform in Iraq and Afghanistan are going to have to start worrying about Christmastime whether the new Congress and a possible new White House is going to be as supportive of their efforts. We know our troops are going to be there. We know our troops are going to be there in large numbers. Why do we not go ahead and properly fund them?

The current policy in this bill is as silly as knowing you are running out of gas when you are on a long car trip, refusing to buy any new gas until way down the road somewhere, about October, and then when you finally get to the pump, you are buying $25 worth of gas when you should be filling up the tank.

Mr. Chairman, this bill refuses to fill up the tank. It refuses to fully fund our troops in Iraq and Afghanistan. It does fund them for 3 or 4 months; but that is a piecemeal, shortsighted funding scheme that does a disservice to our men and women in uniform.

Mr. SKELTON. Mr. Chairman, may I inquire of the time remaining, please.

The CHAIRMAN pro tempore (Mr. CAMP). The gentleman from Missouri (Mr. SKELTON) has 27 minutes remaining. The gentleman from California (Mr. HUNTER) has 25 minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield myself 2 minutes.

Let me just say in response to my colleague who has just spoken that we did something that was unprecedented in this bill, which was look into the future, into the last several months of this year, and decide that, even though we all agreed and the budget chairman announced on the floor and to the world that we were going to need supplementals of $50 billion this next year, we decided that we did not want to have any strain on the troops in the closing months of this year before Congress, after the election, could put together another supplemental.

So we provided this bridge, which even the gentleman will admit carries us well into the next year, into the next calendar year; and we did fully provide for the additional forces that we have in the field, the 1st Armored Division, which is going to be an additional $750,000. For all of the armor upgrades, we have got roughly $1 billion for armor upgrades in Humvees and trucks, for all of the modernization that the chief of staff of the Army needs for modularity, that is, building this new brigade centric force for the U.S. Army.

The reason we do not go off into the new year and say, okay, should it be $50 billion, should it be $75 billion is very simple. We cannot see the future. We do not know how much weight this new Iraqi military is going to be able to take on their shoulders, how fast we are going to be able to make this handoff; and all of those things drive the costs of operation. But this takes good care of the troops for a long period of time during this bridge period; and that is the reason we did it, to give the troops confidence.

It is above and beyond the $422 billion bill that we have. I think, Mr. Chairman, it does a good job in looking out for the troops.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WELDON), the chairman of the Subcommittee on Tactical Air and Land Forces, whose subcommittee oversees the most massive part of modernization and our biggest programs for aircraft and land systems, who has done a great job working this issue.

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I want to thank our chairman of the committee for an outstanding bill. I think it is one of the best Defense bills since I have been in Washington in 18 years, and I want to also thank the distinguished ranking member who is one of the finest gentlemen in this Congress and someone that both the chairman and I are proud to serve with.

I tell my colleagues that the chairman is correct. This bill is for the soldier. It directly deals with the issues that our soldiers are experiencing and the problems and challenges they are experiencing in the Iraq and Afghan theater, and it provides an aggressive and appropriate response.

In fact, we are proud of the fact that under our chairman's leadership we have had almost every member of the committee visit Iraq and Afghanistan to interact with our troops so that we did not base our own decisions in a vacuum on what was told to us by our military leaders; but rather, we went over and we talked to the troops. We interacted with them in a firsthand way and then came to terms with the President's budget request and what we thought was needed.

We increased funding just within my subcommittee's jurisdiction by $4.3 billion for additional programs and modernization. That includes $700 million of additional money for up-armored Humvees. It includes additional money for improvised explosive devices, for UAVs, for personal protection, for surveillance, for the Predator and the Shadow, for the Bradley fighting vehicle modernization, for Hellfire missiles; and across the board we provide the funding that we know our troops need.

The gentleman referred to a shortfall. I can tell my colleagues, after we got the President's budget, we asked the services, what are your unfunded priorities. The total amount of unfunded priorities, as given to us by the service chiefs, was $12 billion. We more than compensated for the unfunded priorities and look forward to what the costs are going to be to continue our presence in Iraq and Afghanistan, and we took care of that because of the vision of our chairman and our ranking member in working together.

Now, we are going to have to come back and ask for additional dollars, yes; but this bill does a more than adequate job to take care of the needs that we have identified and that our service chiefs have identified, but it goes beyond that.

We specify in this bill that any modernization must also be given to our Guard and Reserve units based on their being deployed in the theater. So the new equipment we buy will not just go to our active duty forces; but under this legislation, it will go to Guard and Reserve units who have been serving over there and who need the latest state-of-the-art equipment. But we even go further than this.

We deal with some tough issues. We deal with the issue of outsourcing. Under the chairman's leadership, starting last year, we put money into a fund to come up with innovative ways to have manufacturing components done here in the U.S. as opposed to overseas.

□ 1600

This year, we added $50 million of additional money to that pot. And we have challenged our companies to work with labor unions so that when they contemplate outsourcing 10 or more jobs, we have a financial mechanism in place to bring labor and management together to find common solutions that will allow that company to reduce costs and keep those potential outsourced jobs right here in America.

So this bill covers a lot of territory. It is good legislation, and I encourage my colleagues to accept it and vote for it.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, the evidence of the unity of the Committee on Armed Services presents itself in unanimous support of this committee on this bill. I thank the gentleman from Missouri (Mr. SKELTON) and the chairman, the gentleman from California (Mr. HUNTER), as well, for collaborating at that level. And I guess I rise today simply to be united behind our troops, but I do offer my concerns.

I had an amendment that would direct the Department of Defense to award a contract to an independent phone bank for tending to rape and sexual assault victims in a confidential manner within 3 months of enactment of this bill. It was needed and not made in order.

My second amendment would have directed the Department of Defense to conduct a full review into the situations women are placed in within the

Armed Forces. The review would specifically focus on the intimidation many women feel they may face in the Armed Forces in relation to higher-ranking male officers, who often place female subordinates in compromising situations. But, likewise, it would discuss, of course, some of the issues that we see in Iraq.

But today I rise to say singularly that my vote will be offered to provide the kind of funding that we see in this bill for the troops, the $705 million for up-armored Humvees, the $332 million for ballistic armor for other Humvees, and, yes, the over $104 billion for military personnel, in particular the dollars that we will have for Iraq and Afghanistan. There is a great need.

America, however, needs to be told the truth. And as I stand here, united with our troops, I demand and call for the accountability of those who are responsible for the incidents and the activities in the Iraqi prison and the other collapse of the Iraqi effort.

I want victory in Iraq and in Afghanistan as well. I want democracy and security in Afghanistan and Iraq. And I want our troops to be safe, I want other veterans to be safe, I want their widows and families to be safe. We are unified behind that.

But I see no reason to continue with the leadership of Secretary Rumsfeld. We must hold the higher ranking accountable.

Today, I stand with the troops in support of this legislation.

I rise today with grave concerns in regards to the deficiencies of this National Defense Authorization Act. It is truly unfortunate that the brave men and women of our Armed Forces are fighting around the world while the Department of Defense is in the current state it is in. Leadership must be accountable for the actions of the Armed Forces; the unfortunate events taking place in Iraq have caused our Nation irreparable harm.

CONGRESSWOMAN JACKSON-LEE'S AMENDMENTS

I am most disappointed with the decision of the Rules Committee not to make my amendments in order. I can find no real substantive or procedural reason why my two Amendments would be ruled out of order. Unfortunately, there is no substitute to this National Defense Authorization Act; therefore there is a greater need for appropriate amendments. My two amendments would have addressed two glaring issues that continue to trouble members of our Armed Forces.

My first amendment would direct the Department of Defense to award a contract to an independent phone bank for tending to rape and sexual assault victims in a confidential manner within 3 months of its enactment. That phone bank would be required to have the expertise and training programs in place to allow operators to cope with unique situations arising from sexual abuse in the military context. This phone bank would be open to members of the Armed Forces and their families. I hope we all understand the devastation caused by rape and sexual assault. However, what we fail to recognize is the fact that members of the Armed Forces and their families are in a unique situation that is not faced by other Americans. Because of this fact it is imperative members of the Armed Forces and their families have an outlet to receive counseling and advice for issues related to rape and sexual assault without the fear that their report might be sent to their superiors in the Armed Forces without their consent.

My second amendment would have directed the Department of Defense to conduct a full review into the situations women are placed in within the Armed Forces. This review would specifically focus on the intimidation many women in the Armed Forces may face in relation to higher ranking male officers who often place female subordinates in compromising situations. Also, to have been addressed specifically by the review are the delicate situations women in the Armed Forces are placed in when stationed abroad especially when in relation to direct contact with enemy combatants and prisoners. The Department of Defense would then report the full findings of this review and appropriate remedies to the problem within 6 months to the Senate and House Armed Services Committees. I feel strongly that such a review is necessary after the recent torture scandal that took place in Iraq. It has become obvious that women stationed abroad in Iraq were not placed in proper situations. Pfc. Lynndie England, who is accused of being involved in the torture and humiliation of Iraqi prisoners, says that her actions were forced by her superiors in the military. I will not pass judgment on Pfc. England until her court-martial has taken place, but what I do know is that it is entirely possible that she was intimidated. Furthermore, why were female soldiers guarding Iraqis in a prison when we know that it would be deeply offensive to the Iraqi public to do so? I am not saying that women should not be serving in Iraq, what I am stating is that women in Iraq shouldn't be placed in precarious situations which are not advantageous to them or to the mission we are hoping to accomplish in Iraq. The Department of Defense needs to conduct this review because no member of the Armed Forces should be intimidated into taking actions that they know to be wrong. It must be clear to everyone in this body that this review is necessary in light of recent events that have unfortunately placed women in the Armed Forces in a bad light.

IRAQ TORTURE SCANDAL

I have great consternation with the fact that this Defense Authorization does nothing to address the prison situation that led to the Iraq torture scandal. The court-martial of a few enlisted soldiers will not solve a problem that is endemic. There are many steps to be taken to make sure that our men and women of the Armed Forces are not being put in uncertain situations. It must be obvious to all Members of this body that we need a proper system of jails to hold Iraqi prisoners and appropriate training of our soldiers to guard these prisoners.

I was pleased to see that Representative ABERCROMBIE's language on independent contractors was added to this Authorization. It has become painstakingly clear that the Pentagon has no control on the number of activities of independent contractors in Iraq. Apart from their own safety, which we cannot guarantee, independent contractors have been involved in a number of dubious situations which have placed further undue burden on our Armed Forces.

The recent events in Iraq have made it even more painfully clear to me that this Administration has no real exit plan from Iraq. The truth is that this war was poorly planned from the start and the recent torture scandal has only furthered that thought. This authorization addresses a number of issues affecting our Armed Forces, but it does not properly address the needs of our Armed Forces who are still stationed in Iraq.

MISSILE DEFENSE

It is truly unfortunate to that this Defense Authorization continues this Administration's policy of having misplaced priorities. Instead of directing more money for proper planning in Iraq, or for greater protection equipment for our troops, or maybe for greater pay raises for our troops; this Administration has decided to budget $10.2 billion for missile defense next year—twice the request for any other weapons system. Missile defense systems are not new, in fact they have been discussed for decades. The truth is that missile defense systems have proven to be overly complex, unreliable, and often been little more than pipe dreams. Why in good conscience, in this time of budget constraints and increased need, would we allocate even more money for failed programs? There are more responsible ways to budget this money. Money from the Defense Authorization should go to our men and women in the Armed Forces who actually defend our Nation instead of into programs that just waste needed funds.

SPRATT AMENDMENT

It is sad to see that so many relevant and necessary amendments to this Defense Authorization were not ruled in order. Perhaps the most relevant amendment was that submitted by my distinguished colleague, Representative SPRATT. His amendment would have provided $414.4 million for targeted pay raises, reimbursement of life insurance premiums for service members that are in imminent danger, 3 Marine Corps' troop protection unfunded requirements, and improvements to the PAC–3 ballistic missile defense system. These necessary defense budget items would have been offset by targeted cuts to 4 ballistic missile defense program elements, the Ground-based Midcourse Defense system, BMD Products, BMD Technology, and the BMD Systems Interceptor. Representative SPRATT has found a very reasonable compromise that still results in Ballistic Missile Defense programs receiving an increase in funding over the 2004 level. It is truly unfortunate that such a pertinent amendment was not ruled in order and debated by this entire body. When the amendment process is compromised like it has been here then the legislative process suffers and unfortunately that means our Armed Forces will suffer as a result of this Defense Authorization.

I hope in the future that such significant legislation as this will involve the debate and full consideration of all necessary and relevant amendments. The men and women of our Armed Forces and indeed the American people as a whole deserve as much.

AMENDMENT TO H.R. 4200, AS REPORTED

OFFERED BY MS. JACKSON-LEE OF TEXAS

At the end of title V (page 200, after line 24), insert the following new section:

SEC. ___. CONTRACT FOR INDEPENDENT TELEPHONE BANK FOR TENDING TO RAPE AND SEXUAL ASSAULT VICTIMS IN THE MILITARY CONTEXT.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall award a contract for the establishment of a telephone bank, operated independently from the Department of Defense, for counseling of members of the Armed Forces, and family members of members of Armed Forces, who are victims of rape, sexual assault, or other forms of sexual abuse. The contract shall require that such counseling be provided on a confidential basis and that the entity awarded the contract have expertise and training programs in place to allow operators to cope with unique situations arising from sexual abuse in the military context.

AMENDMENT TO H.R. 4200, AS REPORTED

OFFERED BY MS. JACKSON-LEE OF TEXAS

At the end of title V (page 200, after line 24), insert the following new section:

SEC. ___. REVIEW OF SITUATIONS IN WHICH WOMEN IN THE ARMED FORCES ARE PLACED WHILE SERVING IN THE ARMED FORCES.

(a) REVIEW.—The Secretary of Defense shall conduct a full review into the situations women in the Armed Forces are placed in within the Armed Forces. The review shall specifically address—

(1) the intimidation many women in the Armed Forces face in relation to higher ranking male officers who often place female subordinates in compromising situations; and

(2) the delicate situations women in the Armed Forces are placed in when stationed abroad, especially in relation to direct contact with enemy combatants and prisoners.

(b) REPORT.—The Secretary of Defense shall submit a report on the review under subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 180 days after the date of the enactment of this Act. The report shall set forth the full findings of the review and appropriate remedies to problems identified in the review.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. MCHUGH), who chairs the Subcommittee on Total Force, which oversees the 2.5 million Americans in uniform.

Mr. MCHUGH. Mr. Chairman, I thank the gentleman, the distinguished chairman of the committee, for yielding me this time, and it is with great honor and pride that I rise today.

Mr. Chairman, as always, I express my deep appreciation to the chairman, the gentleman from California (Mr. HUNTER), and of course to the ranking member, my dear friend for whom I hold so much respect, the gentleman from Missouri (Mr. SKELTON), and also my partner on the Subcommittee on Total Force, the gentleman from Arkansas (Mr. SNYDER), for their support, their great leadership in this effort.

As we have heard, Mr. Chairman, time and time again, the chairman of the full committee challenged all of us to make this the Year of the Soldier. Those of us on the Subcommittee on Total Force try to make every day the Year of the Soldier, but I think even by that normal standard this subcommittee has done an outstanding job on both sides of the aisle of bringing together a package of benefits and of responses to the challenges facing our men and women in uniform that go that extra step further, as they are for us.

The chairman spoke earlier about that 30,000 increase in total end strength for the Army and 9,000 for the Marines, placing valuable, much-needed troops on the ground in those places like Afghanistan, like Iraq, and, in turn, lessening the burden on the troops back home awaiting their next rotation or on the Reserve component.

We talked about the 3.5 percent pay increase. This is now the sixth consecutive year in which we have provided a pay increase. This particular 3.5 percent exceeds that of the private sector and reduces the gap that we have been struggling to close between the private sector and military from 5.5 to 5.1 percent. We increased the wartime pay, the imminent danger pay, and family separation allowances that our brave men and women in those theaters of war deserve. We added to those.

The Reserve component is not left behind either. It is very, very valuable. I heard my dear friend and colleague, the gentleman from California (Mr. LANTOS), earlier speak about the need to ensure that those Reservists who find themselves financially stressed are in a position to have their incomes supplemented. In this bill, Mr. Chairman, for the first time in history, we propose and, in fact, do that, from $50,000 to $3,000 a month in added income to those Guards and Reservists who are deployed repeatedly and for extended periods of time. It is the right thing to do and the right time to do it.

I would like to address the comments of the gentlewoman from California (Ms. LORETTA SANCHEZ), and she has been a leader on this subcommittee and a leader in the House with respect to issues of sexual harassment, sexual abuse and rape; and I commend her for her leadership. But we want most of all to be sure that any change in the Uniform Code of Military Justice is done appropriately and done in a way that ensures better not fewer protections for the victim.

And in this bill we require a report from the Department of Defense. We are going to move on that issue. Yesterday, I met with the Deputy Secretary for Personnel, Dr. David Chu, on this very issue. I told him that this subcommittee, Democrat and Republican alike, is committed to reforming and updating the rules and regulations in the UCMJ with respect to sexual harassment and rape, and told him that we wanted him to be a partner.

But with him or without him, with or without the Department and the services, we were going to make the changes that the gentlewoman has discussed. This is far too important an issue to do in a hurried manner, and I certainly look forward to the gentlewoman's being a continued leader in that effort.

In short, Mr. Chairman, I would just say that this Subcommittee on Total Force has worked magnificently to respond to probably the greatest asset this Nation has today in the war on terror. And, without question, the greatest asset this Nation has ever had, since our founding back in 1776, is our men and women in uniform.

This is a great bill, and I urge all my colleagues to support its passage.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I want to thank the ranking member for yielding me this time, and to commend him and the chairman for the hard work they have done on this legislation.

I fear, however, Mr. Chairman, that my brief contribution to this debate today must concern one of the bill's serious omissions. The gentleman from Connecticut (Mr. SHAYS) and I drafted a bipartisan amendment that would have addressed the fact that, because of loopholes in current law, contractors in Iraq are operating in a legal fog where they are not accountable to Iraqi laws, to U.S. laws, or to laws governing our troops. The contractors working in Iraq are not comfortable with this, and we should not be comfortable with it either.

Our amendment would have fixed this problem by closing loopholes in the Military Extraterritorial Jurisdiction Act, MEJA, so that contractors and subcontractors in Iraq and elsewhere would be accountable under the law, and the Department of Defense would have a clear responsibility to place violators of the law before the appropriate bar of justice.

Our amendment had the support of the contractors themselves. The Parliamentarian had ruled it germane. It had strong bipartisan support and would have almost certainly passed, and yet we were not allowed to present this amendment before this body today for a vote.

Mr. Chairman, this issue is too important for this Congress to do nothing. The gentleman from Connecticut and I have just introduced our amendment as a stand-alone bill. We welcome the support of colleagues, and we hope that the House leadership will not pass up this second chance to do the right thing.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Chairman, I want to thank the chairman for working with me in adding $100 million to add 10 additional B–1 bombers. As my colleagues know, the B–1 played a very major role in Iraq and Afghanistan, and the B–1s from Dyess Air Force Base were an integral part of that mission.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. NEUGEBAUER. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman for his hard work and his urging that we try to retrieve an additional 10 B–1 bombers. We now have 67.

The Air Force was going to cut that down to 60. We moved it back up where we retrieved seven of the bombers that were going basically into the bone yard, and the gentleman worked hard with myself and other members of the committee to make sure we retrieved an additional 10 bombers. So we are taking the B–1 up to 77 bombers.

That B–1 has been a great asset for the projection of power for the United States. It has got great speed, it can hold a tremendous payload, and it can literally put a precision munition right through a goalpost. In fact, we went after Saddam Hussein early on in the war in Iraq with the B–1 bomber.

So the gentleman has been a champion of the B–1. I want to thank him for that, and I hope he is here with me when we roll out those additional 10 that we are bringing back from retirement.

Mr. NEUGEBAUER. Reclaiming my time, Mr. Chairman, I look forward to that day.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Mrs. DAVIS), a member of the Committee on Armed Services.

Mrs. DAVIS of California. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of this bill.

This bill contains important provisions for our troops, including a well-deserved pay raise and additional force protection equipment. I would like to thank my colleague from San Diego, the distinguished chairman of the committee, for resisting calls from the Defense Department to grant further relief from important environmental laws.

Despite the great provisions in this legislation, some serious questions remain, and I will address one.

If you ask the Defense Department today to tell you the number of contractor personnel serving in Iraq, you will get a shrug. That represents a fundamental area of concern. The events in Fallujah and the images of Abu Ghraib remind us of the role that contractor personnel play and how their actions can affect the military mission.

We must come to terms with contractor participation and performance on the battlefield. The questions that must be answered include: Why are so many contractors being used in Iraq and other places? Does anyone really know how many are present? Who is responsible for ensuring contractors are properly trained and qualified? And to whom are the various contractors accountable? Are they providing security for the military, or is it the other way around?

This bill authorizes an additional $25 billion for operations in fiscal year 2005, a figure that should have been included in the President's budget request. So before this Congress approves additional funding, we must come to terms with money being spent on contractor personnel.

Mr. Chairman, lives are at stake.

Mr. HUNTER. Mr. Chairman, I yield myself 1 minute to thank the gentlewoman who just spoke, my seatmate in California, to say something about contractors.

God bless our contractors. The last figure I saw was that the contractors for Halliburton, who have to run Ambush Alley, bringing our convoys, bringing food to the troops up through the heart of the insurgency country in Iraq, have now lost 34 of their personnel, killed in action supplying American troops.

We have always had lots of contractors for the very simple reason that for every troop you have out there with a rifle, you need roughly 10 people to support him down the supply line; and a lot of those people have always been contractors. We have had them in all theaters of the war in this last century and, obviously, in Afghanistan and Iraq.

The four individuals who were killed in Fallujah were American heroes, and they were trying to advance the American cause with every bit as pure a heart and sense of honor, in fact, as mostly former military personnel, as any of our people in the United States Marine Corps or Army in that area of operation.

So I think that we should appreciate our contractors perhaps more than has been noted on the House floor.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina (Mr. WILSON), a very good member of the committee.

□ 1615

Mr. WILSON of South Carolina. Mr. Chairman, I would like to thank the gentleman from California for his leadership, and the ranking member, the gentleman from Missouri (Mr. SKELTON), for his participation in crafting a wonderful bill, H.R. 4200.

I had an opportunity last fall to accompany the gentleman from Missouri (Mr. SKELTON) to Iraq, and I saw firsthand the courage of our troops and the difference they are making in winning the war against terror and protecting American families.

I also had an opportunity last year of concluding 31 years' service with the Army National Guard, and I now have two sons serving in the Army National Guard, including one son deployed in Iraq; so this bill has a great deal of meaning to me because of the improvements of the statutes providing for benefits for those who serve in the Guard and Reserves.

These benefits are going to be so meaningful for troops who are protecting our country and are mobilized at this time. First of all, there is the provision for new reenlistment and retention bonuses. As we face future crises, the Guard and Reserve will have that increased protection.

Income supplement is an issue I worked very hard on for 25 years, premobilization and legal counseling; and the greatest concern I saw were the sacrifices that many of our young people made where they had a reduction in income. This will be addressed in this bill. It will be so beneficial to families.

Finally, there is the provision for TRICARE health benefits to be provided for National Guard members and Reservists, and I also thank the chairman for including wording that will provide for the establishment of State defense forces. In South Carolina, we have the South Carolina State Guard. These are volunteers, unpaid like civil defense forces, who stand in to protect our people when there has been deployment of National Guard troops.

Mr. Chairman, I thank the gentleman from California (Mr. HUNTER) for ensuring our troops have the resources needed to fight the war on terror to protect American families. I urge my colleagues to support H.R. 4200.

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. MEEHAN), the ranking member on the Subcommittee on Terrorism and Unconventional Threats and Capabilities.

Mr. MEEHAN. Mr. Chairman, I thank the gentleman for yielding me this time and for his service on this committee. I also recognize the gentleman from California (Mr. HUNTER) for his service and the way that he conducted the hearings on this mark in a very bipartisan way, affording an opportunity for all Members to speak out. In fact, my recollection is the chairman even came down on the shortened of a vote which I have not seen in quite some time. I am sure the gentleman will fix that in the other body. I thank the gentleman for his service.

As a ranking member of the Subcommittee on Terrorism and Unconventional Threats, I believe the product before us today is, on the whole, a solid proposal. This committee pledged to make this year the Year of the Soldier, and I think we made great strides in achieving that goal. We have a well-deserved pay raise for our troops. I am pleased that this legislation authorizes critical force protection resources, including $329 million for up-armoring Humvees, $358 million for add-on armor kits, and $421 million for interceptor body armor.

This fulfills all of the shortfalls, including on the Army's unfunded requirements list, which I am disappointed that the administration failed to request. The committee has also included language that I put forward requiring the Department of Defense to report to Congress on the lessons learned from its failure to expeditiously field protective equipment to our troops in Iraq. And we have expressed a sense of Congress urging the Department to release all appropriated

funds to armor thin-skinned Humvees as soon as possible.

We are a Nation at war, and we cannot shortchange our troops by leaving them defenseless in the theater. I am proud that this committee has stepped forward and authorized important resources to support our ongoing military operations in Iraq and Afghanistan, despite the administration's failure to include much of this funding in its annual budget. But I also strongly support efforts to authorize $67 billion to take us through the end of fiscal year 2005 instead of the end of this calendar year.

Additionally, I am pleased that my colleagues recognized the need to address the gaping holes in the oversight of civilian contractors hired by the Department of Defense in the face of human rights abuses in Abu Ghraib prison.

Our committee approved an amendment offered by the gentleman from Hawaii (Mr. ABERCROMBIE) to require the Department to report to Congress on the activities of contractors in Iraq. We also included my proposal on directing the Department to issue guidance for training contractors in the Geneva Conventions and international laws of war.

Finally, the bill makes important quality-of-life improvements for our troops and for our veterans. I applaud the committee for finally ending the survivors benefit penalty. I am also encouraged that the bill addresses many of the inequities in benefits for our Reserve component, from eliminating the $5,000 cap on reenlistment bonuses, to removing restrictions on Reservists from accessing tuition assistance, as included in an amendment which I offered.

With respect to the terrorism subcommittee's mark, several of the provisions in this portion of the bill deserve praise. First, I am pleased we included a number of recommendations to streamline and accelerate the development and acquisition of technologies to combat terrorism. Additional resources are provided in a number of areas, including chemical and biological research and important detection initiatives.

The committee also honored a request by the gentleman from Texas (Mr. TURNER) and me to improve the manner in which we develop and acquire medical countermeasures against biological warfare agents.

Finally, I cannot say I support every provision in this authorization bill. I remain concerned about cuts to DARPA and several information technology programs, as well as the committee's failure to include several important nonproliferation provisions which I believe are key to winning the global war on terrorism.

I hope that we can at least have an honest debate on these issues another day. With that said, legislating is the art of compromise, and I believe the product before us will boost our troops and our war-fighting capabilities. Therefore, Mr. Chairman, I ask my colleagues to join me in supporting its final approval.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me this time and applaud the gentleman for all the good work he is doing for the United States.

Mr. Chairman, no Member in this body disagrees that so long as our troops remain in Iraq, they should have the resources they need in order to protect their lives. We have not done well in this area up to this point, and we must do better.

Further, in my judgment, the Bush administration has done a terrible job in keeping faith with our veterans. This bill makes a start in improving that situation, but we have a very long way to go in that area, especially with regard to veterans health care.

Mr. Chairman, there are a lot of good things in this bill, and there are in my view portions of this bill that are not good and that are very wasteful of taxpayer money.

Most importantly, however, is what is lacking in this legislation, and that is there is no demand in this bill for the President to provide us with an exit strategy from Iraq, a timetable as to how we can get out. Since the war in Iraq began, we have lost 790 men and women, over 4,500 have been wounded; and we are spending billions every month.

Meanwhile, anti-American feelings are growing throughout the Muslim world, breeding more potential terrorists, and we are becoming increasingly isolated from our long-term allies. Significantly, in a recent U.S. Government-sponsored poll, 82 percent of the Iraqi people indicated that they now disapprove of the U.S. and allied military being in their country; 82 percent disapprove. The war in Iraq, in my view, is not helping us in the very difficult struggle against international terrorism. In many ways, it is making a bad situation worse.

The time is long overdue for President Bush to develop an exit strategy as to when the Iraqi people will really be allowed to govern themselves. It is not good enough for the U.S. to install Iraqi figureheads who do not have the support or confidence of the Iraqi people. The President must also tell us when the U.N. and the international community will be helping rebuild Iraq. That should not only be the burden of our soldiers and our taxpayers. President Bush must do all that he can to internationalize the transition situation.

Lastly, Mr. Chairman, and most importantly, the President must begin to tell us when American troops will begin coming home. We have lost 790 men and women already, 4,500 have been wounded, many thousands of Iraqi men, women and children are dead. We need an exit strategy to get our troops home as soon as feasible.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE), who has worked so hard on the chem-bio protection issues.

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Chairman, I thank the gentleman for yielding me this time.

To provide for the common defense is the first object of the Federal Government. I rise today in strong support of the National Defense Authorization Act because it meets that objective.

This legislation with its principal focus on the American soldier earns the gentleman from California (Mr. HUNTER) the well-deserved title Soldier's Chairman, which I believe will stick.

American soldiers with the help of coalition forces have accomplished extraordinary things in recent days, liberated 50 million people in Iraq and Afghanistan, captured and imprisoned a brutal dictator, deposed an evil regime, and American soldiers have carried out hundreds of raids, seizing caches of enemy weapons and munitions, including ominously this week, weapons of mass destruction that were found in Iraq in the form of munitions containing mustard gas and sarin gas.

It is precisely this discovery, as the chairman attests, that concerns me and most Members of Congress most deeply, for the well-being of our men and women in uniform in the theater of operation in Iraq.

I am pleased to say that H.R. 4200 provides an extraordinary amount of resources in the form of force protection: $1.5 billion for chemical and biological defense programs, individual protection, decontamination equipment, chemical and biological protective shelters, just to name a few.

We have most certainly now found weapons of mass destruction in Iraq, and the nature of the munitions we have found suggest there are more stockpiles yet to be uncovered. And putting a primacy on achieving our objective of securing the peace in Iraq must remain our fervent goal; but beyond that, protecting our forces in that theater of operation from exposure to these weapons of mass destruction is key, and the new National Defense Authorization Act achieves that goal. I am grateful for the chairman; I am grateful for every member of the committee on both sides of the aisle for creating this extraordinary legislation.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, there are many good parts of this bill, such as those that relate to pay and benefits, particularly a quality for National Guard reenlistees and others. There are some necessary, long-overdue basics for the troops, armored Humvees among others. But I rise to raise another issue

which is of extraordinary importance, and hopefully I can get some agreement to resolve this problem.

□ 1630

We do not have a draft in the United States of America. We have a great all-volunteer military. Unfortunately, there are two aspects to that. One I tried to address with an amendment which was not allowed which is what are called ''stop-loss orders.'' Many people in the military today are being forced to serve beyond the terms of their contract under stop-loss orders with no compensation. I think minimally they should be compensated. But today in the Portland Oregonian, page one, we have a story which is now breaking that faulty orders were sent out by the Army last month which told people in the Individual Ready Reserve if they did not choose a branch and reenlist that the military would choose soon a branch and mandatorily reenlist them. They now admit that this order was a mistake. Here is a quote from one veteran: ''I started crying and said, 'I'm not doing this,' '' said Carissa Jenkins, 22, of Keizer who was discharged from active Army duty in January 2003. ''I have a baby, a husband. All my values have changed.'' She said she joined the National Guard last week to keep from going back into the regular Army. It is reported that in Oregon alone, enlistments were up by a factor of 1,000 percent for the month. Nothing else explains it except that these people were being told they were about to be drafted back into the military. And nationally, over 1,063 inactive Army Reservists signed up under these false pretenses.

I would ask that these reenlistments, which were done under color of faulty orders, be abrogated by the Secretary of Defense. I would hope that the two gentlemen on the floor here would join me. If these soldiers want to sign up of their own free will without a draft, without faulty orders, then certainly they should be allowed to do that. But this woman and a number of others are saying, no, they did not want to go back onto active duty, they did not want to go back into active guard status, but they did it because they were told if they did not do that that the Army was going to do it to them.

Is the chairman of the committee familiar with this situation?

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I would just say to the gentleman, no, I am not familiar with that situation.

Mr. DEFAZIO. Is the ranking member familiar? I understand he is trying to get some information on this.

Mr. SKELTON. If the gentleman will yield, I am familiar with the article and I have asked my staff to make official inquiry with the Reserve component of the United States Army to answer this.

Mr. DEFAZIO. If soldiers like this woman, Carissa Jenkins, were forced against their own better judgment and their own life circumstances to reup because they felt they were about to be compelled without their own volition back into active duty, would the gentleman agree that perhaps we could look at voiding these contracts and allowing them to decide without coercion whether or not they want to go back into active duty?

Mr. SKELTON. I think coercion is certainly absolutely wrong. I would say to the gentleman that we would do everything we could to correct the mistake. I am certainly positive that the military would stand behind a mistake that they made.

Mr. DEFAZIO. I thank the gentleman, and I hope that we can get this rectified. As I said previously, there are many good parts to this bill. I believe in the all-volunteer military; I believe in the pay and benefits enhancements; and I believe in providing better equipment, which the bill does. I intend to support it.

Mr. HUNTER. Mr. Chairman, I would just say to the gentleman that I will be happy to work with the gentleman from Missouri on this issue.

Mr. DEFAZIO. I thank the gentleman.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. SMITH), chairman of that very important committee, the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Chairman, I rise to engage in a colloquy with the gentleman from California, chairman of the Committee on Armed Services. I want to thank the gentleman for his support and leadership on a significant matter affecting the security of our Nation's military installations. Last year scores of undocumented workers were arrested at several DoD installations across the country, including New Jersey. In the post-9/11 world, we simply cannot afford to allow our contractors to hire undocumented and unskilled workers to work on military bases.

As the gentleman knows, the gentleman from New Jersey (Mr. SAXTON), the gentleman from New Jersey (Mr. LOBIONDO), and I have worked together with him to address this problem. Section 822 of H.R. 4200 authorizes a demonstration project intended to provide incentives to contractors who have a meaningful and comprehensive skilled worker staffing plan to ensure all workers are properly documented. The provision, however, does not state the size or the location of the demonstration project.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from California.

Mr. HUNTER. The gentleman is correct. The size and location of the demonstration project have been left to the discretion of the Secretary of Defense. I will add, however, the whole point of doing a demonstration project is to test whether a legislative idea will produce the results that its proponents intend. The Secretary should conduct a thorough and complete demonstration program.

Mr. SMITH of New Jersey. It is my hope and expectation that the Secretary performs at least part of the demonstration project with contractors in New Jersey. The legislative text of section 822 leaves this choice up to the discretion of the Department of Defense, but can we count on the chairman's support to help us persuade DoD to include New Jersey in the demonstration project based on the fact that an investigation by our own U.S. attorney, Christopher Christie, resulted in the discovery of security violations and the arrests of illegal aliens who had access to several of our New Jersey bases?

Mr. HUNTER. I would just say to my good friend that he and his colleagues from New Jersey and others can certainly count on my support.

Mr. SMITH of New Jersey. I thank the gentleman. I urge my colleagues to support this provision and to vote ''yes'' on H.R. 4200.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I appreciate the work done by the gentleman from California and the gentleman from Missouri on this legislation. There are some important pieces to this bill, equipment for our troops and the like. There are matters of concern, for example, the new nuclear program that I have opposition to. But there is an obscure provision of the bill that I want to make sure Members know about and that is section 1404 which would require U.S. companies to get a license before they export any goods listed on the military critical technologies list. According to a copy of the list I found on the Department of Defense Technical Information Center Web site, that includes computers that exceed 1,500 MTOPS. That would be considered military critical. So under this bill, computers, laptops, Sony PlayStations that exceed 1,500 MTOPS would require an export license. That would be to export it anywhere. If you want to sell a Sony PlayStation to Europe, to England, you would need a Defense Department export license. I think that that is a problem.

The outdated metric of 190,000 MTOPS needs to be changed, but to go down to 1,500 MTOPS as a metric is literally the stone age of computing. I believe that if there are specific military critical technologies that are not sufficiently controlled under existing export regulations, say, night vision or surveillance devices, then let us draft something that controls those technologies. But to say that we cannot sell a laptop to somebody in London, that the Ipods cannot be exported to France, that the Sony PlayStations

cannot be sold to Japan, I think is a mistake. I know that this is about war. I did not know it was about war on the American economy.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Chairman, I thank the chairman of the full committee for his great work on this bill. I rise in support of H.R. 4200. Today we address the needs of a Nation at war on multiple fronts and sustain our commitment to our troops, providing them with the best technology and equipment in support of our ongoing mission in Iraq and in Afghanistan and in the war on terror all around the world. This bill will improve living and working conditions for U.S. military personnel and their families. It recognizes the critical contribution of our National Guard and Reserve and increases authorization for their modernization programs. It protects and supports our military retirees and their survivors. Most important, it gives our troops the resources and equipment that they need to keep themselves safe and America free.

The Committee on Armed Services has deemed this the Year of the Soldier. I can think of no better way to honor and serve those who are giving of themselves, making extraordinary sacrifices, putting their lives on the line in defense of this country than by supporting H.R. 4200, the national defense authorization bill. I thank the chairman and the ranking member for their great work on this.

The CHAIRMAN pro tempore (Mr. CAMP). Without objection, the gentleman from Texas (Mr. REYES) may control the time of the gentleman from Missouri (Mr. SKELTON).

There was no objection.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY), who has done so much great work on this committee.

Mr. GINGREY. Mr. Chairman, I rise in strong support of H.R. 4200, and I would like to commend the gentleman from California and the gentleman from Missouri for their tireless efforts in support of our soldiers, our sailors, airmen and Marines who are bravely defending us at home and abroad.

Mr. Chairman, this is the Year of the Soldier. The bill before us clearly reflects that objective. The bill does a remarkable job of covering a wide scope of issues that are vitally important to our armed services. From survivor benefit improvements to the 3.5 percent across-the-board pay raise that H.R. 4200 authorizes, this bill addresses the most pressing needs of our troops in a very trying time for this country. For our Reservists who experience a reduction in their income while away from their civilian jobs, there are income replacement payments. For our deployed soldiers, H.R. 4200 contains almost $830 million for up-armored Humvees and $358 million for vehicle add-on armor kits.

I am also grateful for the work that the Committee on Armed Services has done to fully fund the F/A–22 program this year. In particular, I want to thank the gentleman from California (Mr. HUNTER) and the gentleman from Pennsylvania (Mr. WELDON), my subcommittee chairman, for doing this and making sure that we got this vitally important program fully funded.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. GINGREY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, first, let me just say that this is a program that shares support on our committee among Democrats and Republicans. This aircraft capability is something that is very important to our country. We just did a briefing on the emerging aerospace industrial base in China, their new high-performance aircraft, which at some point may threaten American interests. This aircraft is vital, it is needed, and it is an important follow-on. We will keep working on it. I thank the gentleman for his hard work on it.

Mr. GINGREY. I thank the gentleman from California for the full funding for these 24 planes. It will go a long way toward providing stability for that program and ensuring that America maintains air dominance for the next 30 years.

In closing, Mr. Chairman, I want to thank the gentleman from California and the gentleman from Missouri for their hard work on this bill.

Mr. REYES. Mr. Chairman, it is my pleasure to yield 2½ minutes to the gentlewoman from California (Ms. LEE), a fellow Texan.

Ms. LEE. Mr. Chairman, let me thank the gentleman from my home city of El Paso, Texas, for yielding me this time and for his commitment to our young men and women in uniform. My father served many, many years at Fort Bliss, Texas.

I rise today to discuss the three amendments that I would have offered had the Republican leadership allowed genuine debate on our Nation's defense policy. Of course, instead we heard earlier a rule was crafted which silenced probably over 95 amendments.

Let me talk about my three amendments for a minute. The first amendment which I offered called for the creation of an international commission to monitor prison conditions in Iraq. This commission would be made up of representatives from the Iraqi Government and Iraqi civil society, the International Red Cross, the International Red Crescent, the United Nations, the United States and Coalition Armed Forces. Contrary to what the President's lawyers apparently think, the Geneva Conventions is neither quaint nor is it obsolete. This amendment would have ensured compliance to help restore badly damaged United States credibility. We have all seen the pictures. The whole world has seen the pictures. We need to take action to correct the situation and to convince the Iraqi people and the world that we are abiding by international law.

My second amendment would have created a database of those who have been detained. Family members should not have to wonder if their loved ones have simply disappeared. We have learned that over 70 percent of the detainees probably are individuals who should not be detained. We cannot condone the policy and practice of holding ghost prisoners who just vanish into United States custody. This is simply wrong. But this amendment also was rejected.

Finally, my third amendment prohibited the use of United States funds in the overthrow of democratically elected governments. That is a simple democratic principle that I thought we held. Given the allegations of this government's involvement in the overthrow of President Aristide's government in Haiti, this amendment would have restored confidence in the protection of democracy. It was born out of the Bush administration's alleged involvement in the recent coup in Haiti.

□ 1645

First of all, this is a similar amendment that was instituted under Representative Edward Boland, who prohibited the Reagan administration from using money to fund the Nicaraguan contras. It is shocking and totally shameful that we even need an amendment saying that our government is not in the business of overthrowing its democratically elected counterparts throughout the world; but history, including our very recent history, teaches us that we do.

This amendment also was rejected, along with many others offered by my colleagues. Some would have called for an exit strategy from Iraq; others would have reined in the uncontrolled and unmonitored use of private contractors, and that would have prevented the escalation, of course, of the arms race. These are, again, some other amendments that would have been allowed had we been allowed to debate them.

I say that the Republican majority continues to abuse its power.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM), a very distinguished American from San Diego, the Navy Top Gun who was nominated for the Congressional Medal of Honor for actions over the skies of North Vietnam and who has a real heart for the servicemen.

Mr. CUNNINGHAM. Mr. Chairman, the gentleman from Missouri (Mr. SKELTON) is a descendant of Daniel Boone. He is like a brother. The gentleman from Texas (Mr. REYES), or Silver, as we call him, would rather work in a bipartisan manner than anything and is a very close friend.

I heard this morning in our conference the words ''a soldier's chairman,'' and I cannot think of a better

fitting for this bill and the chairman that presents it. The gentleman from California's (Mr. HUNTER) dad, R.O. Hunter, was in the Marine Corps. The gentleman from California (Mr. HUNTER) served in Vietnam. His son is in the Marine Corps and a lieutenant today.

But I think even more important, the people in this Chamber who know the gentleman from California (Mr. HUNTER), know he has given his life to this Nation, to our military, and our veterans.

We go out to Walter Reed and we see these kids that have lost a foot or an arm, and do the Members know what they ask me? I talked to the gentleman from Pennsylvania (Mr. MURTHA), and they talk to him the same way; they say, Do not let them kick us out of the service, let us go back to our units. These kids that are wounded multiple times and they fight to stay with their units because they believe in it.

And I think what a fitting bill that takes care of our families, that takes care of our troops, and is supported in such a bipartisan way. I think this Nation is proud, and I think this Nation supports not only this bill, but the actions of Members on both sides of the aisle.

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

May I respond to the gentleman from California (Mr. CUNNINGHAM), my friend. I am most appreciative of his kind words.

This is a very important bill, Mr. Chairman. We are at war. Needless to say, a lot of legislative work went into this bill, and of course there are some disappointments that go along with it. But the bottom line is, it is going to be very helpful in both the anti-guerrilla effort in Iraq and the antiterrorism effort in Afghanistan as well as supporting the troops all over the globe.

Cicero once said that gratitude is the greatest of all virtues, and through this legislation, in our own way, Mr. Chairman, we are expressing our gratitude to the young men and young women who wear the uniform of our country. We thank them for doing their duty, for understanding what their duty is, for being professionals at what they are, and bottom line, being patriotic.

So we thank them in so many ways, in the amendments and in the paragraphs and the figures, as well as in the speeches in this Chamber, the gentleman from California (Mr. HUNTER), my friend, our chairman, and Members on both sides of the aisle.

So, Mr. Chairman, I fully support the bill. And at the end of this debate, I say thank you to the troops and I thank the majority, especially our chairman, for the cooperation that we have had.

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

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

Having heard the eloquence of my great colleague, the gentleman from Missouri (Mr. SKELTON) and preceded by the gentleman from California (Mr. CUNNINGHAM), my old compadre, I do not think I can add anything to what they said.

Ms. SLAUGHTER. Mr. Chairman, I rise in strong support of H.R. 4200, Fiscal Year 2005 Defense Authorization. The House Armed Services Committee deserves recognition for producing a bill that addresses the critical needs of our Armed Forces at a time when we are engaged in major military campaigns in both Iraq and Afghanistan. The bill also makes provisions to ensure the long-term strength of our military readiness and improve the livelihood of our military families.

Specifically, I am pleased that this measure eliminates the Survivor Benefit Penalty to spouses of deceased members of the Armed Forces. Not only is this annuity essential to the livelihood of many surviving spouses, but it provides much-needed peace of mind to our dedicated military personnel.

Additionally, I am pleased that this bill contains $400 million for individual body armor. I have long been concerned about this issue since receiving several phone calls and heartfelt letters from parents in my district whose children serving in Iraq have no body armor. There is no excuse for us to send our soldiers into harm's way without this most basic protection. H.R. 4200 commits substantial resources to ensure that our troops have the body armor they need.

Next week, we will commemorate Memorial Day and remember the courageous men and women who made the ultimate sacrifice for our freedom. Regrettably, since the beginning of the campaign in Iraq, we have added 793 to their ranks. More troubling is that potentially one in four of these fatalities could have been avoided if our troops had had the armored equipment they needed.

This bill makes a commitment not only to the memory of the soldiers we have lost but also the ones that continue to be in harm's way in Iraq. We owe it to their memory and those who answer the call to service to do everything in our power to minimize the risk of loss of life.

I also want to rise in opposition to H. Res. 648, the rule for consideration of this bill. In Rules Committee, I offered three amendments that would have substantially improved the underlying bill. Regrettably, the Committee decided to deny this body the opportunity to consider two of my amendments.

My first amendment would have ensured that the Department of Defense had a steady stream of domestically produced electronic equipment. These components are vital to the maintenance of some of our most sophisticated weapons and communications systems.

My second amendment would have allowed individuals to apply for benefits under the Energy Employees Occupational Illness Compensation Act if they developed diseases from their work at facilities that had residual contamination, after the Manhattan Project had been completed. It is long overdue to do right by this aging and ill population.

Our men and women in uniform are bravely serving all over the world because their country has called on them. In return, we must ensure that we are doing everything within our power to provide them with what they need. This bill makes great progress toward meeting the needs of our soldiers and their families.

For this reason, Mr. Chairman, I rise in strong support for H.R. 4200.

Mr. STARK. Mr. Chairman, I rise today in strong opposition to S. Con. Res. 95, the "Concurrent resolution on the budget for fiscal year 2005." In these times of economic uncertainty it is unthinkable to pass a budget that will leave this country over $8 trillion in debt at year's end.

I have often quoted my friend, Princeton economist Uwe Reinhardt, when talking about the Federal budget. He explains the budget as a Memo to God, outlining our highest priorities as a Nation. In tune with the Republicans' faith-based initiative, I give you this year's memo to God, and ask everyone to think if this is the message we really want to send to God and the American people.

To: God.

From: Republicans in Congress and the Bush Administration.

Re: FY 2005 Budget Priorities.

Date: May 19, 2004

God, it has been a really tough year. We are on track to have the worst jobs growth record since the great depression, we have lost nearly 800 of our bravest young men and women in Iraq, and 43.6 million Americans have no health insurance. With this in mind, we have proposed a budget that is both fiscally and compassionately conservative, which we have outlined below.

We feel it is absolutely necessary to have a $690 billion deficit in FY 2005, which will raise the national debt to over $8 trillion dollars. We are raising the debt limit under the Hastert rule, thereby precluding the House from ever debating whether the coming years' budget should be allowed to increase the Federal debt by such an alarming amount. Every man, woman, and child will have over $26,000 in national debt to call their very own by the end of FY 2005.

God, we know it's a sin, but we haven't been very good at telling the truth lately; first it was weapons of mass destructions, and now it is Medicare. Our own experts have told us that the Medicare prescription drug bill we passed last year will cost $534 billion dollars over 10 years. However, we didn't tell anybody before we voted, so there is no reason to pretend it is reality now. The budget resolution assumes this legislation will only cost $409 billion over ten years, meaning we have purposely underestimated the $609 billion deficit to further cover up previous mistakes.

Since we have been so dedicated to healthcare this year with Medicare, we have no choice but to make broad cuts in the Medicaid program. Over the next five years we promise to cut mandatory Medicaid spending by nearly $900 million dollars. We are aware that many low-income children and mothers may lose access to affordable healthcare services, but this is the price we have to pay for continuing huge tax cuts for corporations and wealthy Americans.

Racking up an over $600 billion deficit also requires large doses of fiscal irresponsibility. As the party of fiscal conservatism we are dedicated to paying for our increased spending—unless that spending is earmarked for the war on terrorism—but not the decreased revenues caused by our tax cuts. Pay-as-you-go rules worked to balance the budget during the Clinton Administration, so we cannot possibly use them to balance our budget. Yes, we did pretend to require new spending and tax cut offsets for one year, but that has no real effect on our agenda because we exempted three major tax cuts that we plan to enact this year that will cost $551 billion over the next ten years.

Finally, we have further endangered Social Security and Medicare by increasing the

debt, thereby increasing the amount that must be borrowed each year from the trust funds. With the baby boomers approaching retirement, we know we can't continue to pilfer these trust funds, but we do it anyway. In the end, the only plausible option will be to cut Social Security and Medicare to continue paying for our unjustified wars and irresponsible tax cuts for the upper class.

God, we know you will understand why it is necessary to continue tax cuts for the wealthiest Americans while we cut vital services for the elderly, people with disabilities and the poor. This memo is about our priorities, and upon close analysis of this budget I think you will see what true compassion and fiscal conservatism is really all about.

That is the message that House Republicans are sending to God and to the American public. It's not a message I agree with and that is why I urge my colleagues to join me in voting ''no'' on this misguided priority list for our Nation.

Mr. SCHIFF. Mr. Chairman, throughout the last year there have been numerous reports, some issued by government agencies, others emanating from news organizations, that have detailed critical shortages of equipment needed to protect our young men and women serving in Iraq.

I visited Iraq last year and spoke with our troops serving there about the shortages of armored Humvees and body armor. I know that many of my colleagues who have visited Iraq have raised similar concerns. I have pressed this issue during consideration of the Iraq supplemental and on numerous other occasions. Many of our troops who have been killed in Iraq in the past months were riding in unarmored Humvees that were hit by small arms fire, rocket-propelled grenades, or improvised explosive devices. Doubtless, some were lost because they were not protected.

I was deeply disappointed by the length of time that it has taken to provide our soldiers with this life-saving equipment, and I am pleased that Chairman HUNTER and Ranking Member SKELTON wisely increased funding for these programs by several orders of magnitude. Because of these increases, I will add my voice of support for the bill.

I am also pleased that the Committee has increased the end strength of the Army and Marine Corps over the next three years. Our active duty forces, our Reserves, and our Guard have been overstretched by operations in the War on Terrorism and the war in Iraq. I have been strongly supportive of increasing the size of the military, and by authorizing additional forces, we will enable our troops to get the training and time for rest and re-fit that they need and deserve.

I am less pleased by the provisions relating to the rush to deploy a National Missile Defense system that I believe is not ready for deployment. I support additional research and testing of ballistic missile defense systems, but the imminent deployment of the first interceptors is premature and diverts taxpayer money that is more immediately needed to provide basic security for our troops.

I am most concerned by the ill-conceived decision to authorize more than $36 million for research into the Robust Nuclear Earth Penetrator, as well as a new generation of advanced nuclear weapons. At a time when we are asking other nations to forswear the development of nuclear weapons, when we invaded Iraq because we thought that Saddam was developing nuclear weapons, when Osama bin-Laden has exhorted his followers to use nuclear weapons against the United States, and when our own State Department has compiled a Top Secret list of sites around the world that contain unsecured fissile material, we should be focusing on non-proliferation, counter-proliferation, and cleanout activities. Funding for a new generation of nuclear weapons enhances neither our security, nor our credibility.

Mr. MCGOVERN. Mr. Chairman, I want to express my appreciation to Chairman HUNTER and Ranking Member SKELTON for their leadership in bringing this bill before the House. I honor after dedication to our uniformed men and women, and their families and dependents.

I have often criticized our military budget. There is simply too much waste, too much duplication, too much fraud and abuse. We fund weapon systems that don't work, or contribute to a new arms race, or both. On these matters, I will support the amendment to be offered later today by Congresswoman TAUSCHER and my Massachusetts colleague Congressman MARKEY.

I believe, however, that this bill makes important contributions to protecting our troops in the field and to the welfare of their families.

H.R. 4200 fixes the long-standing problem of the Social Security offset for our military retirees and their survivors, which is a top priority for my constituents. The Survivor Benefit Plan currently penalizes over 225,000 aging survivors, mostly widows of our nation's veterans. These survivors are forced to give up more than one-third of their retirement benefit when they become eligible for Social Security. Mr. Chairman, this is simply wrong.

Bipartisan legislation to fix the Survivor Benefit Plan was introduced over a year ago by our colleague form Florida, Congressman MILLER, and despite having 336 cosponsors, was left to languish. So, I salute the Committee for ending this injustice by providing a five-year phase-out of the Social Security offset.

I strongly support the increased funding for Armored Humvees, to outfit currently deployed Humvees with ballistic armor, and for Interceptor body armor. This bill also reimburses military personnel who had to purchase their own body armor because the Pentagon failed to provide them with protection.

I also want to thank the Committee for including an initiative for income replacement payments to Reservists who experience a reduction to income from their civilian life. I believe this is an important step that should be extended to National Guard members, especially for those who have experienced extended deployments. The financial stress faced by the families of our active-duty Reserve and Guard is well-known to every Member of this House, and I believe we must respond in a far more comprehensive way if we expect to honor their service and sacrifice, retain current personnel, and attract future candidates for service. I am deeply disappointed that the Republican majority will not allow Congressman LANTOS to offer his amendment, which would help equalize the difference in income for federal workers who have been called to active-duty in the Reserves. I am an original cosponsor on Congressional LANTOS' legislation that would provide such funding, and I am very proud that the Commonwealth of Massachusetts has already implemented such a program for state employees who have been activated. I simply do not see why we cannot do the same for federal employees nation-wide.

I also want to thank the Committee for its strong bipartisan support for keeping in place the limits on the number of U.S. military troops and contractors in Colombia, and I thank our colleagues from Mississippi, GENE TAYLOR, for his leadership on this issue.

Mr. Chairman, I want to be clear: Even though I support this bill I have serious concerns about U.S. Policy in Iraq and Afghanistan. This bill cannot be a blank check. Our policies are in serious trouble in both countries. The Bush Administration must, I believe, change course if we are to have any hope of brining security, stability and representative government to the region.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise in support of H.R. 4200, ''The National Defense Authorization Act for Fiscal Year 2005''.

I would like to start off by commending Chairman DUNCAN HUNTER and the entire Committee on Armed Services for all of the hard work on this legislation. A bill of this magnitude requires an enormous bi-partisan effort. The result here is legislation that will provide the resources necessary for U.S. military forces to protect and defend this country both at home and abroad.

I am concerned, however, with several provisions in this bill affecting the acquisition system. The first provisions interfere with the Department of Defense's competitive sourcing program. The second group of provisions represent an ill-considered attempt to protect domestic jobs. We can all agree that the Federal government should do as much as it can to support jobs in America. However, tacking on onerous provisions to the acquisition system to protect a handful of jobs is not the right approach. It costs money—taxpayers' money. The acquisition system's purpose is to procure the best value goods and services with taxpayers' dollars, not to protect jobs. Most important, we have learned time and time again that provisions restricting our ability to tap the resources of the global market in the name of saving jobs result in retaliation from our trading partners, costing us more jobs in the long run.

First, we have the provisions of the Langevin amendment included in the Committee mark. These provisions, if enacted, would require sweeping changes to the Administration's critical competitive sourcing program and hamstring the Defense Department's ability to manage its programs and workforce.

Our economy is based on a free market system where competition is essential to maintaining vibrancy and productivity. Who can argue with the idea that a little competition is needed to spur efficiency in Government? The problem is that, despite having considerable input into the revised OMB Circular A–76 that provides the procedural framework for the competitive sourcing program, its opponents have mounted an attack on competitive sourcing. They equate ''competitive sourcing'' with ''outsourcing'' or ''privatization,'' or at least they say they do. But words matter, and competitive sourcing is simply not the same as outsourcing or privatization. Outsourcing assumes up front that the private sector can perform activities better, cheaper, and/or faster

than a government organization. Competitive sourcing does not assume the private sector is the preferred provider. Its purpose is not to downsize the government workforce. It uses competition to decide. Opponents argue that competitive sourcing takes jobs away from Federal employees. This is simply untrue. In most cases, the Federal employees involved in the competition either retain their jobs if the agency team wins or are rehired if the private sector wins. In fact, according to agency data from a recent GAO report, in-house teams win most of the competitions, retaining almost 76 percent of the positions competed. The key point is, public-private competitions result in substantial savings in the activity competed, regardless of who wins the competition.

The Langevin language would cripple the competitive sourcing program at the Department of Defense. It would, for example, prevent the Department from making reasoned management decisions for the benefit of our Armed Forces and the American taxpayer by prohibiting the Defense Department from making any reorganization of a function so that it would be performed by 10 or fewer employees unless it conducts a public/private competition. Think about this: under this provision, the Secretary of Defense is prohibited from paring his office staff from 12 people to 9.

Further, the Langevin amendment unfairly tilts public-private competitions toward the Federal employees and introduces into private businesses' right to offer their employees a total compensation package by prohibiting the A–76 cost comparison from including any savings that could be attributable to a businesses' use of a worker health plan that is different than that provided to Federal government employees. This would establish a Federal mandate to private industry and cripple the ability of small businesses to participate in this program. That, Mr. Chairman, is not good government.

The Langevin provision also would require the Department of Defense to establish a pilot program to conduct an arbitrary number of public/private competitions for new work and work currently performed by contractors. This would mandate that the Department expend resources so that Federal workers can compete with the private sector to perform new commercial work. Don't our Federal workers have enough to do in fulfilling their current responsibilities? Interestingly, the requirements would not extend to any work to be performed by a contractor whose workers are represented by a private-sector labor union.

Finally, the Langevin amendment imposes a mass of reporting and tracking requirements, which in a number of cases duplicate requirements that are currently in chapter 146 of title 10. The only point of these is to gum up the competitive sourcing program. A number of these mandates would apply whenever a service contract is awarded by the agency, whether or not as the result of a competitive sourcing study. So not only are the Langevin supporters interested in hamstringing the competitive sourcing program but also in reversing the recently passed reforms in service contracting.

Secondly, section 811 of the bill, titled Defense Trade Reciprocity, would prohibit DoD from purchasing any defense article or service from any company in a country (including our NATO allies, our coalition partners, and Israel) that within one year does not have an offset policy toward U.S. companies that is comparable to U.S. offset policy. This provision is ill advised, would severly limit the ability of the Department of Defense to cooperate with our allies and operate overseas, and would undercut the ability of our defense industry to compete in selling to our allies.

Last fall, the Congress passed two provisions dealing with offsets. In the extension of the Defense Production Act, we asked the Commerce Department to complete a study by this August on the impact of offsets on the supplier base and required the Administration to discuss with our trading partners ways to reduce the ''adverse'' impacts of offsets. Congress is to receive periodic reports on how such discussions are progressing.

In last year's Defense Appropriations Act, we required the Department of Defense to prepare a report by March 1 on the impact of offsets on the defense industrial base and make any appropriate recommendations. We ought to at least wait for the results of the actions we demanded of the Executive Branch only a few months ago before taking premature actions on offsets.

In fact, while offsets distort international defense trade, concern about the impact of offsets is overblown. The annual Commerce Department review of offsets that is required by a provision of the Defense Production Act consistently concludes that defense sales that have associated offset provisions produce approximately 30,000 U.S. jobs, and the offsets reduce that figure by about 9,000 jobs, for a net gain to the U.S. of 21,000 jobs. Any actions that jeopardized those sales could result in a net loss of jobs and an erosion of the U.S. defense industrial base.

The U.S. currently enjoys a trade balance in defense exports of 6–1 in its favor with respect to Europe and around 12–1 with respect to the world. In a time when we worry about ballooning trade deficits, the U.S. aerospace industry delivers the largest export surplus of any sector in the economy with over a $25 billion trade surplus in 2003. Policies that restrict the ability of U.S. companies to continue making such sales will hinder interoperability with our allies, reduce U.S. jobs, and undercut the supplier base.

The simple fact is that restrictive provisions such as this are self-defeating, Cold War anachronisms that cripple our participation in the Global Market and jeopardize defense exports—one of the major sectors of our economy.

Finally, the Manzullo amendment, to be considered on the floor, would add the creation of jobs in the U.S. as one of the instances that the Secretary of Defense could use in a determination under 10 U.S.C. 2304(b)(1) to exclude a source to establish or maintain alternative sources of supply. The 10 U.S.C. 2304(b)(1) is seldom used and it is discretionary, but it could be used to justify a sole-source contract award under the guise that it created jobs.

Moreover, the amendment would add ''the creation of jobs'' to the list of required evaluation factors for all negotiated acquisitions under 10 U.S.C. 2305(a)(3)(A). This would mandate that the creation of jobs be a factor in the selection of the winning offeror in a competitive acquisition. The problem here is that we would be requiring the consideration of a factor that has nothing whatever to do with the merits or cost of the proposal. Again we are burdening our acquisition system with a requirement that is not related to the acquisition of best value goods and services for the government.

Additionally, I am concerned with Chairman HUNTER's amendment that adds money for the Patriot missile and uses a $48 million cut to the KEI program as one of the offsets. The KEI program will play a crucial role in our Nation's security by providing enemy ballistic missile defense. Any cut in funding will hinder this program's advances in the area of anti-ballistic missiles.

I also want to offer my support to the Wamp amendment, which makes improvements to the Energy Employees Occupational Illness Compensation Act. The amendment addresses statutory problems that have created significant bottlenecks for thousands of claims being made under this important DOE program.

Mr. Chairman, in closing, I want to again commend Chairman HUNTER for this bill in its entirety, despite my opposition to some of its specifics.

Mr. SIMMONS. Mr. Chairman, I rise today in strong support for H.R. 4200, the National Defense Authorization Act for fiscal year 2005.

As a Member of the Armed Services Committee, I wish to thank Chairman HUNTER and Ranking Member SKELTON, as well as our subcommittee chairmen and ranking members for their tireless work in crafting this fine piece of legislation.

These are not easy times for the Department of Defense. The brave men and women of the Army, Navy, Air Force and Marines are serving us proudly around the globe. They are daily putting their lives on the line to defend the liberties we take for granted. In the last 2 years these men and women have overthrown two terrorist regimes and liberated over 50 million people in Afghanistan and Iraq.

The least we can do for our troops is provide good wages, adequate armor and ammunition, and new aircraft, ships and fighting vehicles. This legislation meets and exceeds these goals. I am pleased that this bill will provide a 3.5 percent across-the-board pay raise, eliminating out-of-pocket housing expenses and increasing retention incentives and hazard duty pay.

Hearing of inadequacies in body armor and up-armored HMMWVs from family members of soldiers in the field, I made force protection my number one priority. Earlier this year I traveled to Ohio to see first-hand the manufacturing process and capabilities of up-armored HMMWVs.

I thank the chairman and ranking member for fulfilling their commitment by providing $704.7 million to increase and sustain production of the vehicles at a rate of 450 per month.

I also applaud their forward vision in providing $358.2 million for add-on armor kits for the Army's truck fleet. The add-on armor provides critical protection against anti-personnel projectiles and improvised explosive devices (IEDs).

Earlier this year the 1109th AVCRAD, a Connecticut National Guard aviation repair unit, returned from a year deployment in Kuwait and Iraq. Conversations with the CO made clear to me that the Blackhawk helicopters in theater are wearing out rapidly.

Therefore, I am pleased to see that many of the funds originally authorized in the Comanche program have been redirected to the procurement of much needed Blackhawk Helicopters. The eight helicopters added by the

committee brings the grand total in the bill to 63. Our soldiers specifically asked for more Blackhawks, a workhorse helicopter for our Army and Navy, and this is now provided in this bill.

For our sailors, this bill provides funding for the next Virginia Class submarine. Virginia Class will also be seeing critical research and development funding for both payloads and sensors and the critical Multi-Mission Modules.

Additionally, I am pleased that this legislation addresses the security needs of Naval Submarine Base New London, in Groton, Connecticut, by providing $4.42 million for security enhancements and upgrades to entry gates 3 and 5. These upgrades are necessary to protect the submariners stationed at Subase New London, as well as protecting our investment in the submarine fleet, including the new USS *Virginia* that will soon call the Subase home.

Mr. Chairman, in December 2003, Time magazine named their ''Person of the Year'' as the American Soldier. This year's defense authorization bill has been named ''The Year of the Troops.'' We praise the men and women of the Armed Forces for their service. I am pleased to support a piece of legislation that sends a clear message from this Congress that we support their service and sacrifice.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today in support of H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005. I'd like to thank Chairman HUNTER, Ranking Member SKELTON, and my Subcommittee leaders Chairman WELDON and Ranking Member ABERCROMBIE and Chairman HEFLEY and Ranking Member ORTIZ for all their hard work and efforts to put together a great and bipartisan bill.

The bill we are taking up on the floor today contains a number of very important provisions beyond its routine function of providing for the yearly defense budget.

Specifically, Section 304 includes language that provides authority to the Secretary of Defense to reimburse a member of the Armed Forces for the cost of protective body armor purchased between September 11, 2001 and December 31, 2003 by the member, or by another person on behalf of the member, for use by the member while deployed in connection with Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom if the member was so deployed and was not issued protective body armor before the member became engaged in operations or situations described in 37USC310(a)(2), regarding ''Special pay: duty subject to hostile fire or imminent danger''.

This language is a direct result of both the effort and sacrifice of my constituent Pene Palifka of East Hartford, whose son, Bill, was serving in the Army National Guard's 248th Engineer Company in Iraq. On Monday night, October 13, 2003, I held a public forum about the FY04 Iraq supplemental appropriation request in my District where I first met Pene Palifka and heard her story. When her son Bill was deployed, he was deployed without the Army's new Interceptor body armor, because as it had been reported and as I heard directly from soldiers serving in Iraq when I visited there in August 2003, there was a shortage of roughly 40,000 of these vests at that time.

Out of concern for her son's safety, she came forward and provided the money herself, about $1,100, to purchase body armor for her son. Many other families and soldiers have had to do the same, and that is simply wrong.

Congress appropriated funding in the FY03 Emergency Wartime Supplemental that was signed into law in April 2003 to procure and distribute additional vests. But, as became evident by the time the Iraq Supplemental Appropriation bill was before Congress last October, there were various manufacturing and procurement issues preventing these vests from making it to the front, and this shortage continued to exist through the early part of this year, prompting many soldiers or their families to take matters into their own hands.

While the Congress and the Department of Defense have worked to address these shortfalls since then, this bill fulfills the government's responsibility to reimburse the people who stepped in and spent money out of their own pocket to equip the soldiers serving in the Global War on Terrorism with equipment that Congress intended the Department of Defense to provide.

The next issue I would like to point out and commend our Committee leaders for is working with all of us to find the resources to make eliminating the so-called ''widows tax'' possible. This bill eliminates the social security offset under the SBP by increasing the annuities paid to survivors of military retirees who are 62 or older from 35 percent of retired pay to 55 percent by March 2008. The surviving spouses of our military servicemen and women deserve their full benefits.

Finally, this bill includes a 2-year BRAC delay, an important pause at a time when we must all reassess the priorities of the military and its requirements to provide for the national security of this country in a post 9/11 environment.

Mr. MILLER of Florida. Mr. Chairman, I proudly rise today in wholehearted support of H.R. 4200, the National Defense Authorization Act of 2005. This legislation fully restores the Survivor Benefit Plan annuity to what was promised America's surviving spouses. I applaud my Armed Services Committee colleagues for bringing a quarter of a million military widows and widowers one step closer to seeing increases in their monthly checks next year. This is a Defense Authorization measure of which this body can be proud.

Since coming to Congress, I have been working this issue of particular interest—restoration of the minimum Survivor Benefit Plan basic annuity to fifty-five percent (55%) for survivors age sixty-two (62) and older.

Under present law, surviving spouses are subject to a reduction to thirty-five percent (35%) as part of the initial SBP law enacted in 1972. But this critical piece of information didn't find its way into military retirement briefings and SBP election forms until many years later.

Here's a 1982 election form. Nowhere will you find the offset mentioned. Survivors feel betrayed by this bait and switch. And at 35 percent, SBP provides only a poverty-level-or lower-annuity for most survivors, even those of relatively senior officers.

For nearly three years, I have worked with members of this Committee, my colleagues on the Veterans Affairs Committee, and numerous service organizations to introduce SBP bills that will bring the needed equity. Both bills I have introduced in this Congress have received strong bipartisan support with over three hundred (300) Members sponsoring one or both. I am proud that this Committee has produced SBP reform that exceeds even my greatest expectations. H.R. 4200 will fully eliminate the so-called ''Widow's Tax'' by April 1, 2008—in under five years.

Again, what we're doing today exceeds all expectations. It's what we set our sights upon when I introduced H.R. 548. I thank Chairman DUNCAN HUNTER and the first-rate Armed Services Committee staff, who literally worked around the clock to make this work.

Mr. Chairman, I urge this entire body to support these provisions we have worked tirelessly hard fought, and its victory is shared by so many whose efforts have been tireless and unrelenting. I thank my colleagues who have stood by me to realize this victory.

Ms. ESHOO. Mr. Chairman, the export control amendments in H.R. 4200 will limit Presidential authority to effectively promote U.S. national security and will hobble the U.S. information technology industry by preventing it from selling commodity commercial products to our allies.

This bill requires an export license for all exports of goods and technologies on the Military Critical Technologies List to all countries.

This legislation would roll back export controls on computers below the levels implemented five years ago—thus preventing our technology industry from exporting computing products that are a few generations old.

This amendment is so broad that it would immediately require export licenses for exports of things such as laptop and desktop computers, which can't possibly serve any national security interest.

By passing this amendment, we are immediately cutting off American manufacturers from customers around the world, including key export markets such as Canada, Mexico, Europe, and Asia.

The amendment is so arbitrary, and the list so outdated, that it bears no rational relation to U.S. national security, and threatens to derail America's economic recovery.

Mr. Chairman, I urge my colleagues to protect our critical technology industry and vote against H.R. 4200.

Mr. TERRY. Mr. Chairman, I rise in strong support of H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005.

This legislation supports our troops with $422 billion for national defense and an additional $25 billion for operations in Iraq. Funding for national missile defense and combat capability would increase. Special emphasis on protective equipment such as body armor and heavily-armored Humvees would also help our soldiers return safely to their families.

We must care for our soldiers' families here at home. I am proud to support the well-earned 3.5 percent pay raise and boost in hardship pay from $300 to $750. As a co-chair of the House Impact Aid Coalition, I also commend Chairman Hunter for including $50 million for the education of military children. This would send an additional $20 million to school districts across the country that serve military families. I thank the Chairman for his hard work and strong support of this critical funding.

While I appreciate the emphasis the Air Force has placed on quality of life improvements, I am deeply concerned that mission readiness be funded at adequate levels to support our troops. For example, Offutt Air Force Base in Nebraska has a mission critical runway repair requiring urgent attention. The

safety of airmen flying in and out of Offutt depends upon the condition of this runway, which the Air Force has labeled a critical safety hazard.

Although the repair is the top priority of the Air Combat Command that oversees 38 major installations, the Pentagon has given funding priority to dormitories and fitness centers. I thank Chairman Hunter for at least funding design of the needed runway, and urge him to reexamine the Air Force's priorities in conference. We must ensure mission critical repairs are completed for the safety of our airmen. Military bases that consistently and efficiently perform should also be rewarded for their success.

The War on Terror has been costly in both blood and treasure. More than 750 American soldiers have given the ultimate sacrifice of their lives. Our troops who patrol the streets of Iraq, scour the towns and mountains of Afghanistan, and root out terrorist cells worldwide, know the price of freedom. Their service to protect our nation honors their fallen comrades and dignifies the United States, and should not be demeaned by the cowardly actions of soldiers in the Abu Ghraib prison.

Mr. Chairman, I urge my colleagues to join me in supporting H.R. 4200 to aid our valiant troops.

Mr. ALEXANDER. Mr. Chairman, I rise today to express my strong support for the passage of the National Defense Authorization Act for Fiscal Year 2005. This legislation will continue to ensure that our military services are provided with the personnel, equipment and capabilities that they need to protect our national security.

Section 815 of the pending National Defense Authorization Act will ensure that American freight-forwarding companies in Louisiana, Texas, California, Tennessee and other states are properly utilized in the efforts by the United States to provide cargo shipments for military operations, humanitarian relief aid, or postwar reconstruction in Iraq and Afghanistan. American freight forwarders should be used to the greatest extent possible to process, dispatch or otherwise handle government-sponsored cargoes for shipment overseas.

The Congress continues to see to it that American companies and their hard-working labor force benefit from the procurement of goods and services by the United States government. Specifically, the Congress has required that the American work force be provided with a fair opportunity to compete for federal government contracts. Similarly, cargo preference laws ensure that government-generated cargoes are shipped aboard United States-flag vessels. However, no such protections exist for American freight forwarders. As a result, significant government shipments of cargoes for military operations, international assistance and other purposes are handled today by foreign-owned and controlled freight forwarders without any consideration for the use of American companies to provide freight forwarding services.

Mr. Chairman, the legislation before us will provide appropriate protections for American freight forwarding companies and U.S. government-sponsored cargoes. The bill establishes a preference for the participation of U.S. freight forwarding companies as prime or subcontractors in the shipment of government-sponsored cargoes, provided that the freight forwarding services are offered at fair and reasonable rates. Furthermore, this initiative will further protect the chain-of-custody of critical and sensitive project and other U.S. government-sponsored cargoes destined for Iraq and Afghanistan.

Mr. Chairman, I thank Chairman HUNTER, Congressman SKELTON and other members of the House Armed Services Committee for their support in this matter, and I look forward to working with them on the passage of this vital legislation.

Mr. KUCINICH. Mr. Chairman, I rise in strong opposition to the FY 2005 Defense Authorization bill. The bill continues to fund an ineffective and wasteful defense strategy based on the Cold War. The bill authorizes $422.2 billion for the Department of Defense and the nuclear weapons activities of the Department of Energy. However, the 2001 Defense Authorization bill was $310 billion, revealing that we have increased nominal defense spending 36 percent in just four short years.

The FY 2005 bill also authorizes $25 billion for combat operations in Iraq and Afghanistan. This increases the total funding to $447.2 billion. The running total for emergency supplementals has now reached $191 billion for the wars in Iraq and Afghanistan. Unfortunately the Republican led Congress continues to refuse its Constitutional role of oversight.

The bill funds several weapons systems as well as a war in Iraq that will provide little additional security for Americans. For example, the Ballistic Missile Defense is slated to receive $9 billion for a system that does not work, but will be implemented this year as an election year boost for the President.

The F/A–22 ''Raptor'' Fighter is a cold war fighter plane without an enemy to fight. Yet, the bill will spend $4.5 billion to purchase 24 aircraft. The bill authorizes the purchase of 11 V–22 ''Osprey'' Tilt rotor for $1.6 billion, yet the plane is terribly unsafe. The bill also authorizes more research dollars for the DD(X) Destroyer, wasting $1.2 billion on a boat the Navy does not need. I also object to the Boeing airborne tankers lease/purchase program. This is a classic example of corporate welfare.

I am greatly disappointed that the Republicans have sought to block consideration of two amendments I would have offered. These amendments would have provided the House of Representatives the opportunity to help bring resolution to the ongoing crisis in Iraq.

My first amendment would require that the President develop criteria for troop withdrawal from Iraq.

The war that we are fighting in Iraq at this time is an unconventional war. We have already deposed the leader of the country, and now we now fight both an unknown enemy and a new enemy that was not there before we invaded. There is no exit strategy and every six months or so the American people are faced with a new bill. The leaders of our country have given them no indication that they even know how to get out of Iraq, much less an idea of when their sons and daughters will come home.

The amendment that I would have offered today would require the Administration to provide Congress with a list of criteria for the withdrawal of combat troops in Iraq.

This amendment is useful because it provides America and the world with the answers to the question: What are we still doing in Iraq and what must happen so that we can leave?

These questions are simple and they are necessary.

After all, what are the goals that this Administration hopes to achieve before the withdrawal of troops can commence?

At the very beginning of the war, the ultimate goal was to disarm Iraq from weapons of mass destruction. But there weren't any weapons of mass destruction in Iraq, and our troops are still there.

At another point, the goal was to remove Saddam Hussein from power. Well, that's been done too, and our troops are still there.

So now what? What are the next criteria?

Will troops come home after we've established the largest embassy in the world inside Iraq? Or will they come home after the oil starts flowing in to the right pockets? Or will it be when the defense contractors get billion more of American taxpayer dollars? Or when there are permanent military bases in Iraq so that we can extend an American empire to the Middle East?

Or is it when we've brought ''democracy'' to the people of Iraq? But what constitutes a democracy? An interim government was set up and a constitution was drafted, but we're still there. Will we pull out after an election, or two elections, or three? What happens if the Iraqis elect a leader that we don't like? Will we stay inside until the person of our choosing is running the country?

Is the criterion for leaving Iraq complete ''pacification'', in that we won't leave Iraq until all the fighting has stopped and the country is secure? What will that mean? Will it mean a slow down to one attack per day or week or month?

My amendment is a modest amendment because it requires the Administration to think about all these questions and then tell the American people what exactly it will take to bring the troops home.

And we should all want the answers to these questions. I know that my constituents elected me to ask these questions. After all, it's their money that we're committing.

My feelings about the war are known here. I have been against the war and the occupation. But since it appears as if the Administration does not care to volunteer the details of their objectives in Iraq, we should then ask them.

My second amendment would offer a sense of Congress that would disavow any intention for permanent United States military presence in Iraq. As we all know, many people across the globe have accused the United States of imperial thoughts and actions. To ensure the global community we have no such notions; we must publicly declare our intentions not to establish permanent military bases.

A month after the United States began military operations in Iraq, the New York Times (April, 21, 2003) printed a story indicating that the United States was considering the establishment of four permanent military installations in Iraq. The bases identified are the Baghdad international airport; the Talil airbase near Nasariyah; a base known as H–1 in the western desert near Syria; and Bashur airfield in the Kurdish region near the convergence of the borders of Turkey, Iran and Iraq. On the very next day the Secretary of Defense denied that the United States was seeking permanent military installations in Iraq.

But, neoconservatives are openly talking about the benefits of such permanent bases.

Given that the Turks had been truculent about access by ground before Operation

Iraqi Freedom, that the use of Saudi Arabia has been a delicate matter for the past decade, and that Iraq is ideally situated for operations throughout the region, there is a compelling case for siting U.S. bases in Iraq. (There's No Place Like Iraq . . . For U.S. military bases. Tom Donnelly Weekly Standard 05/05/2003)

More recently in the Inter Press Service News Agency:

But Qatar and even Kuwait, which has acted as a de facto military base for Washington since 1990, could not substitute for the kind of strategic depth and flexibility offered by the four bases identified by the Times as those to which the administration wants permanent access. (Jim Lobe, Nov. 28, 2003)

I believe the Arab world would take great comfort in hearing a declaration by the United States to disavow permanent military bases in Iraq. The United States must state without exception that it does not seek to maintain a long-term military presence in Iraq. Such a declaration will reduce anti-American sentiment in the region and, I believe reduce the attacks upon our troops.

So it is greatly unfortunate that the leadership of the House has not seen fit to debate these amendments.

Mr. BEREUTER. Mr. Chairman, this Member certainly is pleased that H.R. 4200 provides authorization for funding for a very important project in Nebraska's 1st Congressional District. The bill includes $614,000 for a national guard and reserve center headquarters building at Lincoln Airbase, Nebraska. This is the second year that this Member has requested this funding for this necessary project. This Member would like to thank the distinguished Chairman of the House Armed Services Committee (Mr. HUNTER), the distinguished Ranking Member (Mr. SKELTON), the distinguished gentleman from Colorado (Mr. HEFLEY) who serves as Chairman of the Readiness Subcommittee, and the Ranking Member, the distinguished gentleman from Texas (Mr. ORTIZ) for their assistance in this important matter.

These funds will be used to complete the design process associated with the construction of a new headquarters and emergency operating center for the Nebraska Army National Guard. The existing headquarters facility must be relocated due to the new Antelope Valley highway/flood control infrastructure project in the City of Lincoln, Nebraska.

While this project was included in the Department of Defense's (DoD) FY2009 Future Year Defense Plan (FYDP), it needs to be accelerated due to the unanticipatedly expeditious progress on the Antelope Valley Freeway and Flood Control project which will very soon necessitate the abandonment of the current headquarters. It appears that the National Guard Bureau agrees since initial design funding was allocated last year from existing funds, even though it was not authorized or appropriated.

The new facility will house the Joint Forces Headquarters, the Army National Guard Emergency Operating Center, the 24th Medical Company, the 105th Personnel Service Detachment, the Nebraska State Patrol dispatch and communications systems and the Nebraska Emergency Management Agency. Building a multipurpose facility on an existing military installation increases security for all of the components. Furthermore, housing several Federal, state and local agencies in one facility allows the Department of Defense to save scarce military construction funds. Also, bringing those various components within close proximity would facilitate better coordination among the agencies on issues of national and homeland security. Indeed, it is critically important to enhance these relationships in the current post-September 11th environment. The authorization included in H.R. 4200 will allow this important project to move forward.

In addition, this Member is pleased that $497,000 in design funds is authorized in H.R. 4200 for a critically important runway repair at Offutt Air Force Base which is immediately contiguous to the 1st Congressional District of Nebraska. This repair project has been championed by the distinguished gentleman from Nebraska (Mr. TERRY), who represents Offutt, with this Member, and the two U.S. Senators from Nebraska.

Mr. Chairman, in closing, this Member urges his colleagues to support H.R. 4200.

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

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

The CHAIRMAN pro tempore (Mr. CAMP). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

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

H.R. 4200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Defense Authorization Act for Fiscal Year 2005''.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

Sec. 1. Short title; findings.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Program Matters

Sec. 111. Multiyear procurement authority for the light-weight 155-millimeter howitzer program.
Sec. 112. DDG–51 modernization program.
Sec. 113. Repeal of authority for pilot program for flexible funding of cruiser conversions and overhauls.
Sec. 114. Force protection for asymmetric threat environment.
Sec. 115. Allocation of equipment authorized by this title to be made on basis of units deployed or preparing to deploy.
Sec. 116. Multiyear procurement authority for KC–767 tanker aircraft acquisition program.
Sec. 117. Other matters relating to KC–767 tanker aircraft acquisition program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Future Combat Systems program strategy.
Sec. 212. Collaborative program for research and development of vacuum electronics technologies.
Sec. 213. Annual Comptroller General report on Joint Strike Fighter program.
Sec. 214. Amounts for United States Joint Forces Command to be derived only from Defense-wide amounts.
Sec. 215. Authority of Director of Defense Research and Engineering to award prizes for advanced technology achievements.
Sec. 216. Space Based Radar.
Sec. 217. Mark–54 Torpedo Product Improvement Program.

Subtitle C—Missile Defense

Sec. 221. Fielding of ballistic missile defense capabilities.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and Maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense programs.
Sec. 304. Reimbursement of members of the Armed Forces who purchased protective body armor during shortage of defense stocks of body armor.

Subtitle B—Environmental Provisions

Sec. 311. Report regarding encroachment issues affecting Utah Test and Training Range, Utah.

Subtitle C—Workplace and Depot Issues

Sec. 321. Simplification of annual reporting requirements concerning funds expended for depot maintenance and repair workloads.
Sec. 322. Repeal of annual reporting requirement concerning management of depot employees.
Sec. 323. Public-private competition for work performed by civilian employees of Department of Defense.
Sec. 324. Public-private competition pilot program.
Sec. 325. Sense of Congress on equitable legal standing for civilian employees.
Sec. 326. Competitive sourcing reporting requirement.

Subtitle D—Information Technology

Sec. 331. Preparation of Department of Defense plan for transition to Internet Protocol version 6.
Sec. 332. Defense business enterprise architecture, system accountability, and conditions for obligation of funds for defense business system modernization.
Sec. 333. Establishment of joint program office to improve interoperability of battlefield management command and control systems.

Subtitle E—Readiness Reporting Requirements

Sec. 341. Annual report on Department of Defense operation and financial support for military museums.
Sec. 342. Report on Department of Defense programs for prepositioning of material and equipment.

Subtitle F—Other Matters

Sec. 351. Extension of Arsenal Support Program Initiative.
Sec. 352. Limitation on preparation or implementation of Mid-Range Financial Improvement Plan.
Sec. 353. Procurement of follow-on contracts for the operation of five Champion-class T-5 tank vessels.
Sec. 354. Sense of Congress on America's National World War I Museum.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Maximum number of reserve personnel authorized to be on active duty for operational support.
Sec. 404. Accounting and management of reserve component personnel performing active duty or full-time National Guard duty for operational support.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2005 limitation on number of non-dual status technicians.

Subtitle C—Authorizations of Appropriations

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—General and Flag Officer Matters

Sec. 501. Length of service for service chiefs.
Sec. 502. Repeal of requirement that Deputy Chiefs and Assistant Chiefs of Naval Operations be selected from officers in the line of the Navy.
Sec. 503. Increase in age limit for deferral of mandatory retirement for up to 10 senior general and flag officers.
Sec. 504. Increased flexibility for voluntary retirement for military officers.
Sec. 505. Repeal of requirement that no more than 50 percent of active duty general and flag officers be in grades above brigadier general and rear admiral (lower half).
Sec. 506. Revision to terms for assistants to the Chairman of the Joint Chiefs of Staff for National Guard and Reserve matters.
Sec. 507. Succession for position of Chief, National Guard Bureau.
Sec. 508. Title of Vice Chief of the National Guard Bureau changed to Director of the Joint Staff of the National Guard Bureau.
Sec. 509. Two-year extension of authority to waive requirement that Reserve chiefs and National Guard Directors have significant joint duty experience.
Sec. 510. Repeal of distribution requirements for Naval Reserve flag officers.

Subtitle B—Other Officer Personnel Policy Matters

Sec. 511. Transition of active-duty list officer force to all regular status.
Sec. 512. Mandatory retention on active duty to qualify for retirement pay.
Sec. 513. Distribution in grade of Marine Corps Reserve officers in an active status in grades below brigadier general
Sec. 514. Tuition assistance for officers.

Subtitle C—Reserve Component Matters

Sec. 521. Revision to statutory purpose of the reserve components.
Sec. 522. Improved access to reserve component members for enhanced training.
Sec. 523. Status under disability retirement system for reserve members released from active duty due to inability to perform within 30 days of call to active duty.
Sec. 524. Federal civil service military leave for Reserve and National Guard civilian technicians.
Sec. 525. Expanded educational assistance authority for officers commissioned through ROTC program at military junior colleges.
Sec. 526. Effect of appointment or commission as officer on eligibility for Selected Reserve education loan repayment program for enlisted members.
Sec. 527. Number of Starbase academies in a State.
Sec. 528. Comptroller General assessment of integration of active and reserve components of the Navy.
Sec. 529. Operational activities conducted by the National Guard under authority of title 32.
Sec. 530. Army program for assignment of active component advisers to units of the Selected Reserve.

Subtitle D—Joint Officer Management

Sec. 531. Strategic plan to link joint officer development to overall missions and goals of Department of Defense.
Sec. 532. Joint requirements for promotion to flag or general officer grade.
Sec. 533. Clarification of tours of duty qualifying as a joint duty assignment.
Sec. 534. Reserve joint special officer qualification requirements.

Subtitle E—Professional Military Education

Sec. 541. Improvement to professional military education in the Department of Defense.
Sec. 542. Ribbons to recognize completion of joint professional military education.
Sec. 543. Increase in number of private-sector civilians who may be enrolled for instruction at National Defense University.
Sec. 544. Requirement for completion of Phase I joint professional military education before promotion to colonel or Navy captain.

Subtitle F—Other Education and Training Matters

Sec. 551. College First delayed enlistment program.
Sec. 552. Standardization of authority to confer degrees on graduates of Community College of the Air Force with authority for other schools of Air University.
Sec. 553. Change in titles of heads of the Naval Postgraduate School.
Sec. 554. Increase from two years to three years in period for which educational leave of absence may be authorized.
Sec. 555. Correction to disparate treatment of disabilities sustained during accession training.
Sec. 556. Prayer at military service academy activities.
Sec. 557. Revision to conditions on service of officers as service academy superintendents.
Sec. 558. Codification of prohibition on imposition of certain charges and fees at the service academies.
Sec. 559. Qualifications of the dean of the faculty of United States Air Force Academy.

Subtitle G—Medals and Decorations and Special Promotions and Appointments

Sec. 561. Separate military campaign medals to recognize service in Operation Enduring Freedom and service in Operation Iraqi Freedom.
Sec. 562. Eligibility of all uniformed services personnel for National Defense Service Medal.
Sec. 563. Authority to appoint Brigadier General Charles E. Yeager, United States Air Force (retired), to the grade of major general on the retired list.
Sec. 564. Posthumous commission of William Mitchell in the grade of major general in the Army.

Subtitle H—Military Justice Matters

Sec. 571. Review on how sexual offenses are covered by Uniform Code of Military Justice.
Sec. 572. Service time not lost when confined in connection with trial if confinement excused as unavoidable.
Sec. 573. Clarification of authority of military legal assistance counsel to provide military legal assistance without regard to licensing requirements.

Subtitle I—Administrative and Management Matters

Sec. 581. Three-year extension of limitation on reductions of personnel of agencies responsible for review and correction of military records.
Sec. 582. Staffing and funding for Defense Prisoner of War/Missing Personnel office (DPMO).
Sec. 583. Permanent ID cards for retiree dependents age 70 and older.
Sec. 584. Authority to provide civilian clothing to members traveling in connection with medical evacuation.
Sec. 585. Authority to accept donation of frequent traveler miles, credits, and tickets to facilitate rest and recuperation travel of deployed members of the Armed Forces and their families.
Sec. 586. Limitation on amendment or cancellation of Department of Defense directive relating to reasonable access to military installations for certain personal commercial solicitation.
Sec. 587. Annual identification of reasons for discharges from the Armed Forces during preceding fiscal year.
Sec. 588. Authority for Federal recognition of National Guard commissioned officers appointed from former Coast Guard personnel.
Sec. 589. Study of blended wing concept for the Air Force.
Sec. 590. Continuation of impact aid assistance on behalf of dependents of certain members despite change in status of member.

Subtitle J—Other Matters

Sec. 591. Employment preferences for spouses of certain Department of Defense civilian employees subject to relocation agreements.
Sec. 592. Repeal of requirement to conduct electronic voting demonstration project for the Federal election to be held in November 2004.
Sec. 593. Examination of sexual assault in the Armed Forces by the defense task force established to examine sexual harassment and violence at the military service academies.

Sec. 594. Renewal of pilot program for treating GED and home school diploma recipients as high school graduates for determinations of eligibility for enlistment.
Sec. 595. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 596. Senior Reserve Officer Training Corps and recruiter access at institutions of higher education.
Sec. 597. Reports on transformation milestones.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2005.
Sec. 602. Authority to provide family separation basic allowance for housing.
Sec. 603. Geographic basis for basic allowance for housing during short changes of station for professional military education or training.
Sec. 604. Immediate lump-sum reimbursement for unusual nonrecurring expenses incurred by members serving outside continental United States.
Sec. 605. Income replacement payments for Reserves experiencing extended and frequent mobilization for active duty service.
Sec. 606. Authority for certain members deployed in combat zones to receive limited advances on their future basic pay.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of bonus and special pay authorities.
Sec. 612. Reduction in required service commitment to receive accession bonus for registered nurses.
Sec. 613. Increase in maximum monthly rate authorized for hardship duty pay.
Sec. 614. Termination of assignment incentive pay for members placed on terminal leave.
Sec. 615. Consolidation of reenlistment and enlistment bonus authorities for regular and reserve components.
Sec. 616. Revision of authority to provide foreign language proficiency pay.
Sec. 617. Eligibility of reserve component members for critical skills retention bonus and expansion of authority to provide bonus.
Sec. 618. Eligibility of new reserve component officers for accession or affiliation bonus for officers in critical skills.
Sec. 619. Eligibility of reserve component members for incentive bonus for conversion to military occupational specialty to ease personnel shortage.
Sec. 620. Availability of hazardous duty incentive pay for military firefighters.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Expansion of travel and transportation allowances to assist survivors of a deceased member to attend burial ceremony of the member.
Sec. 632. Transportation of family members incident to the serious illness or injury of members of the uniformed services.
Sec. 633. Reimbursement of members for certain lodging costs incurred in connection with student dependent travel.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 641. Computation of benefits under Survivor Benefit Plan for surviving spouses over age 62.
Sec. 642. Open enrollment period for Survivor Benefit Plan commencing October 1, 2005.
Sec. 643. Source of funds for Survivor Benefit Plan annuities for Department of Defense beneficiaries over age 62.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 651. Consolidation and reorganization of legislative provisions regarding defense commissary system and exchanges and other morale, welfare, and recreation activities.
Sec. 652. Consistent State treatment of Department of Defense Nonappropriated Fund Health Benefits Program.
Sec. 653. Cooperation and assistance for qualified scouting organizations serving dependents of members of the Armed Forces and civilian employees overseas.

Subtitle F—Other Matters

Sec. 661. Repeal of requirement that members entitled to basic allowance for subsistence pay subsistence charges while hospitalized.
Sec. 662. Clarification of education loans qualifying for education loan repayment program for reserve component health professions officers.
Sec. 663. Survey and analysis of effect of extended and frequent mobilization of Reservists for active duty service on Reservist income.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Enhanced Benefits for Reserves

Sec. 701. Demonstration project for TRICARE coverage for Ready Reserve members.
Sec. 702. Comptroller General report on the cost and feasibility of providing private health insurance stipends for members of the Ready Reserves.
Sec. 703. Improvement of medical services for activated members of the Ready Reserve and their families.
Sec. 704. Modification of waiver of certain deductibles under TRICARE program.
Sec. 705. Authority for payment by United States of additional amounts billed by health care providers to activated Reserve members.
Sec. 706. Extension of transitional health care benefits after separation from active duty.

Subtitle B—Other Benefits Improvements

Sec. 711. Coverage of certain young children under TRICARE dental program.
Sec. 712. Comptroller General report on provision of health and support services for exceptional family member program enrollees.
Sec. 713. Exceptional eligibility for TRICARE prime remote.
Sec. 714. Transition to home health care benefit under sub-acute care program.
Sec. 715. Requirement relating to prescription drug benefits for medicare-eligible enrollees under defense health care plans.
Sec. 716. Professional accreditation of military dentists.
Sec. 717. Addition of certain unremarried former spouses to persons eligible for dental insurance plan of retirees of the uniformed services.
Sec. 718. Waiver of collection of payments due from certain persons unaware of loss of CHAMPUS eligibility.

Subtitle C—Planning, Programming, and Management

Sec. 721. Pilot program for transformation of health care delivery.
Sec. 722. Study of provision of travel reimbursement to hospitals for certain military disability retirees.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations

Sec. 801. Rapid acquisition authority to respond to combat emergencies.
Sec. 802. Defense acquisition workforce changes.
Sec. 803. Limitation on task and delivery order contracts.
Sec. 804. Funding for contract cancellation ceilings for certain multiyear procurement contracts.
Sec. 805. Increased threshold for requiring contractors to provide specified employee information to cooperative agreement holders.
Sec. 806. Extension of authority for use of simplified acquisition procedures.
Sec. 807. Authority to adjust acquisition-related dollar thresholds for inflation.

Subtitle B—United States Defense Industrial Base Provisions

Sec. 811. Defense trade reciprocity.
Sec. 812. Amendments to domestic source requirements.
Sec. 813. Three-year extension of restriction on acquisition of polyacrylonitrile (PAN) carbon fiber from foreign sources.
Sec. 814. Grant program for defense contractors to implement strategies to avoid outsourcing of jobs.
Sec. 815. Preference for domestic freight forwarding services.

Subtitle C—Other Acquisition Matters

Sec. 821. Sustainment and modernization plans for existing systems while replacement systems are under development.
Sec. 822. Review and demonstration project relating to contractor employees.
Sec. 823. Defense acquisition workforce limitation and reports.
Sec. 824. Provision of information to Congress to enhance transparency in contracting.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Sec. 901. Change in title of Secretary of the Navy to Secretary of the Navy and Marine Corps.
Sec. 902. Transfer of Center for the Study of Chinese Military Affairs from National Defense University to United States-China Economic and Security Review Commission.
Sec. 903. Transfer to Secretary of the Army of responsibility for Assembled Chemical Weapons Alternatives Program.
Sec. 904. Modification of obligated service requirements under National Security Education Program.
Sec. 905. Change of membership of certain councils.
Sec. 906. Actions to prevent the abuse of detainees.
Sec. 907. Responses to congressional inquiries.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. Budget justification documents for operation and maintenance.
Sec. 1003. Retention of fees from intellectual property licenses.

Sec. 1004. Authority to waive claims of the United States when amounts recoverable are less than costs of collection.
Sec. 1005. Repeal of funding restrictions concerning development of medical countermeasures against biological warfare threats.
Sec. 1006. Report on budgeting for exchange rates for foreign currency fluctuations.

Subtitle B—Naval Vessels and Shipyards

Sec. 1011. Authority for award of contracts for ship dismantling on net-cost basis.
Sec. 1012. Independent study to assess cost effectiveness of the Navy ship construction program.
Sec. 1013. Authority to transfer specified former naval vessels to certain foreign countries.
Sec. 1014. Limitation on leasing of foreign-built vessels.

Subtitle C—Sunken Military Craft

Sec. 1021. Preservation of title to sunken military craft and associated contents.
Sec. 1022. Prohibitions.
Sec. 1023. Permits.
Sec. 1024. Penalties.
Sec. 1025. Liability for damages.
Sec. 1026. Relationship to other laws.
Sec. 1027. Encouragement of agreements with foreign countries.
Sec. 1028. Definitions.

Subtitle D—Counter-Drug Activities

Sec. 1031. Continuation of authority to use Department of Defense funds for unified counterdrug and counterterrorism campaign in Colombia.
Sec. 1032. Limitation on number of United States military personnel in Colombia.

Subtitle E—Reports

Sec. 1041. Study of continued requirement for two-crew manning for ballistic missile submarines.
Sec. 1042. Study of effect on defense industrial base of elimination of United States domestic firearms manufacturing base.
Sec. 1043. Study of extent and quality of training provided to members of the Armed Services to prepare for post-conflict operations.

Subtitle F—Security Matters

Sec. 1051. Use of National Driver Register for personnel security investigations and determinations.
Sec. 1052. Standards for disqualification from eligibility for Department of Defense security clearance .

Subtitle G—Transportation-Related Matters

Sec. 1061. Use of military aircraft to transport mail to and from overseas locations.
Sec. 1062. Reorganization and clarification of certain provisions relating to control and supervision of transportation within the Department of Defense.
Sec. 1063. Determination of whether private air carriers are controlled by United States citizens for purposes of eligibility for Government contracts for transportation of passengers or supplies.
Sec. 1064. Evaluation of whether to prohibit certain offers for transportation of security-sensitive cargo.

Subtitle H—Other Matters

Sec. 1071. Two-year extension of authority of the Secretary of Defense to engage in commercial activities as security for intelligence collection activities abroad.
Sec. 1072. Assistance for study of feasibility of biennial international air trade show in the United States and for initial implementation.
Sec. 1073. Technical and clerical amendments.
Sec. 1074. Commission on the long-term implementation of the new strategic posture of the United States.
Sec. 1075. Liability protection for certain Department of Defense volunteers working in the maritime environment.
Sec. 1076. Transfer of historic F3A-1 Brewster Corsair aircraft.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

Sec. 1101. Payment of Federal employee health benefit premiums for mobilized Federal employees.
Sec. 1102. Foreign language proficiency pay.
Sec. 1103. Pay parity for civilian intelligence personnel.
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Sec. 1105. Prohibition of unauthorized wearing or use of civilian medals or decorations.

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Sec. 2801. Increase in certain thresholds for carrying out unspecified minor military construction projects.
Sec. 2802. Assessment of vulnerability of military installations to terrorist attack and annual report on military construction requirements related to antiterrorism and force protection.
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Sec. 2811. Increase in certain thresholds for reporting real property transactions.
Sec. 2812. Reorganization of existing administrative provisions relating to real property transactions.
Sec. 2813. Treatment of money rentals from golf course at Rock Island Arsenal, Illinois.
Sec. 2814. Number of contracts authorized department-wide under demonstration program on reduction in long-term facility maintenance costs.
Sec. 2815. Repeal of Commission on Review of Overseas Military Facility Structure of the United States.
Sec. 2816. Designation of Airmen Leadership School at Luke Air Force Base, Arizona, in honor of John J. Rhodes, a former minority leader of the House of Representatives.
Sec. 2817. Elimination of reversionary interests clouding United States title to property used as Navy homeports.
Sec. 2818. Report on real property disposal at Marine Corps Air Station, El Toro, California.

Subtitle C—Base Closure and Realignment

Sec. 2821. Two-year postponement of 2005 base closure and realignment round and submission of reports regarding future infrastructure requirements for the armed forces.
Sec. 2822. Establishment of specific deadline for submission of revisions to force-structure plan and infrastructure inventory for next base closure round.
Sec. 2823. Specification of final selection criteria for next base closure round.
Sec. 2824. Requirement for unanimous vote of Defense Base Closure and Realignment Commission to add to or otherwise expand closure and realignment recommendations made by Secretary of Defense.
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Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

Sec. 2831. Transfer of administrative jurisdiction, Defense Supply Center, Columbus, Ohio.
Sec. 2832. Land conveyance, Fort Hood, Texas.
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PART II—NAVY CONVEYANCES

Sec. 2841. Transfer of jurisdiction, Nebraska Avenue Naval Complex, District of Columbia.
Sec. 2842. Land conveyance, Navy property, former Fort Sheridan, Illinois.
Sec. 2843. Land exchange, Naval Air Station, Patuxent River, Maryland.

PART III—AIR FORCE CONVEYANCES

Sec. 2851. Land exchange, Maxwell Air Force Base, Alabama.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
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Sec. 3131. Transfers and reprogrammings of National Nuclear Security Administration funds.
Sec. 3132. National Academy of Sciences study on management by Department of Energy of high-level radioactive waste.
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Sec. 3301. Authorized uses of National Defense Stockpile funds.
Sec. 3302. Relaxation of quantity restrictions on disposal of manganese ferro in National Defense Stockpile.
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TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for Maritime Administration.
Sec. 3502. Extension of authority to provide war risk insurance for merchant marine vessels.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of this Act, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Army as follows:

(1) For aircraft, $2,805,941,000.
(2) For missiles, $1,414,321,000.
(3) For weapons and tracked combat vehicles, $1,739,695,000.
(4) For ammunition, $1,729,402,000.
(5) For other procurement, $4,313,640,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Navy as follows:

(1) For aircraft, $8,912,667,000.
(2) For weapons, including missiles and torpedoes, $2,253,454,000.
(3) For ammunition, $870,840,000.
(4) For shipbuilding and conversion, $10,120,027,000.
(5) For other procurement, $4,876,725,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Marine Corps in the amount of $1,315,103,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement for the Air Force as follows:

(1) For aircraft, $13,649,174,000.
(2) For ammunition, $1,396,457,000.
(3) For missiles, $4,638,313,000.
(4) For other procurement, $13,229,257,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2005 for Defense-wide procurement in the amount of $2,950,702,000.

Subtitle B—Program Matters

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR THE LIGHT-WEIGHT 155–MILLIMETER HOWITZER PROGRAM.

The Secretary of the Army and the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, jointly enter into a multiyear contract, beginning with the fiscal year 2005 program year, for procurement of the light-weight 155-millimeter howitzer.

SEC. 112. DDG–51 MODERNIZATION PROGRAM.

(a) ACCELERATION OF MODERNIZATION PROGRAM.—The Secretary of the Navy shall accelerate the program for in-service modernization

of the DDG–51 class of destroyers. As part of that modernization program, the Secretary shall include additional emphasis on determining a means to reduce crew size from approximately 300 to about 200.

(b) REPORT.—Not later than March 31, 2005, the Secretary of the Navy shall submit to the congressional defense committees a report on the steps taken as of that date to carry out subsection (a).

SEC. 113. REPEAL OF AUTHORITY FOR PILOT PROGRAM FOR FLEXIBLE FUNDING OF CRUISER CONVERSIONS AND OVERHAULS.

Section 126 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1410; 10 U.S.C. 7291 note) is repealed.

SEC. 114. FORCE PROTECTION FOR ASYMMETRIC THREAT ENVIRONMENT.

(a) REQUIREMENT FOR ASYMMETRIC THREAT ASSESSMENT.—(1) The Secretary of Defense shall require the Secretary of each military department to perform an assessment of the survivability and suitability against asymmetrical threats of each of the following military systems under the jurisdiction of that Secretary:

(A) Each manned ground system or war-fighter survivability system that may be required to deploy in an asymmetrical threat environment.

(B) Each manned airborne system that may be required to deploy in an asymmetrical threat environment.

(2) For each system covered by paragraph (1), the Secretary concerned shall establish the key performance parameters for survivability and suitability against asymmetric threats.

(3) The assessments under paragraph (1) shall be completed not later than July 1, 2005.

(4) The Secretary of each military department shall review annually the assessments under paragraph (1) conducted by that Secretary to ensure that the assessments remains relevant to the asymmetric threat environment.

(b) REQUIREMENT FOR FORCE PROTECTION.—(1) The Secretary of Defense shall require the Secretary of each military department, for each system covered by subsection (a)(1) under that Secretary's jurisdiction, either to—

(A) take each of the force protection or survivability steps specified in paragraph (2); or

(B) restrict the system from deployment to an asymmetrical threat environment.

(2) The force protection or survivability steps for a system covered by subsection (a)(1) are the following:

(A) Development of force protection or survivability enhancements for the system that meet the key performance parameters established for that system under subsection (a)(2).

(B) Budgeting for in-service modification programs for the system to provide force protection and survivability enhancements developed under subparagraph (A).

(C) Development of tactics, techniques, and procedures for the system to maximize force protection and survivability.

(c) WAIVER.—The Secretary of Defense may waive the applicability of subsection (b) to a system covered by subsection (a)(1) if the Secretary determines that, but for such a waiver, the Department would be unable to meet national security objectives. Whenever the Secretary makes such a determination and authorizes such a waiver, the Secretary shall submit notice of such waiver and of the Secretary's determination and the reasons therefor in writing to the congressional defense committees.

(d) REQUIREMENT FOR NEW DEVELOPMENT MILITARY ACQUISITION PROGRAMS.—The Secretary of Defense shall require the Secretary of each military department, for each military acquisition program that has not entered low-rate initial production as of the date of the enactment of this Act, to include in the development of that program—

(1) as part of the system requirements development, assessments of war-fighter survivability and of system suitability against asymmetrical threats; and

(2) as part of the documentation of system requirements, requirements for key performance parameters for force protection and survivability.

(e) ASYMMETRICAL THREAT ENVIRONMENT.—For purposes of this section, the term ''asymmetrical threat environment'', with respect to a manned system, means a security, stability, or peacekeeping operation in which the system is deployed or any other such environment in which an asymmetrical threat may exist (or, in the case of a manned airborne system, another such environment in which airborne operations would subject the system to a ground-based asymmetrical threat).

SEC. 115. ALLOCATION OF EQUIPMENT AUTHORIZED BY THIS TITLE TO BE MADE ON BASIS OF UNITS DEPLOYED OR PREPARING TO DEPLOY.

The Secretary of Defense shall provide that, in the allocation to operational units of equipment acquired using funds authorized to be appropriated by this title, priority shall be given to units that are deployed to, or preparing to deploy to, Operation Iraqi Freedom or Operation Enduring Freedom, regardless of the status of those units as active, Guard, or reserve component units.

SEC. 116. MULTIYEAR PROCUREMENT AUTHORITY FOR KC–767 TANKER AIRCRAFT ACQUISITION PROGRAM.

(a) MULTIYEAR PROCUREMENT AUTHORITY.—(1) The Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2005 program year, for procurement of 80 KC–767 tanker aircraft.

(2) Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this subsection may be for any period not in excess of eight program years.

(b) LIMITATION.—Subsection (b) of section 135 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1413; 10 U.S.C. 2401a note) is repealed.

(c) RELATIONSHIP TO PREVIOUS LAW.—The multiyear procurement authority in subsection (a) may not be executed under section 135 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1413; 10 U.S.C. 2401a note) or under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117).

SEC. 117. OTHER MATTERS RELATING TO KC–767 TANKER AIRCRAFT ACQUISITION PROGRAM.

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

(1) aerial refueling capability for the Armed Forces is a critical combat force multiplier;

(2) the Nation must expeditiously proceed with a program to replace the Air Force's aging fleet of aerial refueling tankers;

(3) in pursuing an aerial refueling tanker program, the Department of Defense should take full advantage of the United States commercial aircraft production base; and

(4) anyone suspected of involvement in improper or illegal activities associated with such a program should be investigated and, if warranted, prosecuted to the fullest extent of the law.

(b) REQUIREMENT FOR RENEGOTIATION OF CONTRACT.—The Secretary of the Air Force shall enter into one or more contracts for the Air Force multiyear tanker aircraft program, provided that any such contract is negotiated after June 1, 2004.

(c) REVIEW BY OUTSIDE PANEL.—(1) The Secretary of Defense shall establish a panel of experts from outside the Department of Defense to review any proposed contract for the multiyear tanker aircraft program. The panel shall be comprised of individuals who, by reason of education, training, or experience, have expertise relevant to the evaluation of a proposed contract for the lease or procurement of aircraft under that program.

(2) The panel shall review any proposed contract for the multiyear tanker aircraft program to assess, and assist the Secretary of the Air Force in determining, whether the Air Force would under that contract obtain the best value for funds expended. The panel shall serve in whatever manner the Secretary of Defense determines is appropriate to provide an independent review of any such proposed contract. The Secretary shall provide for the panel to make a determination of, and to advise the Secretary of the Air Force on, what would constitute a fair and reasonable contract for that program.

(d) REPORT.—The Secretary of Defense shall provide for the panel established under subsection (c) to submit a report providing the results of its review to the Secretary of the Air Force and the congressional defense committees.

(e) MULTIYEAR TANKER AIRCRAFT PROGRAM DEFINED.—In this section, the term ''multiyear tanker aircraft program'' means the program for—

(1) lease of no more than 20 aerial refueling aircraft for the Air Force authorized under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284), subject to section 135(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1413); and

(2) procurement of no more than 80 KC–767 tanker aircraft for which a multiyear procurement contract is authorized by section 116(a) of this Act.

(f) INTERPRETATION.—Section 134 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1412) is amended by adding at the end the following new subsection:

''(c) INTERPRETATION.—Nothing in subsection (b) or section 1111 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1215) is intended to prohibit the Secretary of the Air Force from executing the program described in section 135(a) of this Act and section 116 of the National Defense Authorization Act for Fiscal Year 2005.''.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,478,164,000.

(2) For the Navy, $16,047,841,000.

(3) For the Air Force, $21,527,967,000.

(4) For Defense-wide activities, $21,074,389,000, of which $305,135,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) FISCAL YEAR 2005.—Of the amounts authorized to be appropriated by section 201, $11,067,698,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term ''basic research, applied research, and advanced technology development'' means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. FUTURE COMBAT SYSTEMS PROGRAM STRATEGY.

(a) PROGRAM STRATEGY REQUIRED.—The Secretary of the Army shall establish and implement a program strategy for the Future Combat Systems acquisition program of the Army. The purpose of the program strategy shall be to provide an effective, affordable, producible, and supportable military capability with a realistic schedule and a robust cost estimate.

(b) ELEMENTS OF PROGRAM STRATEGY.—The program strategy shall—

(1) require the release, at the design readiness review, of not less than 90 percent of engineering drawings for the building of prototypes;

(2) require, before facilitating production or contracting for items with long lead times, that an acceptable demonstration be carried out of the performance of the information network, including the performance of the Joint Tactical Radio System and the Warfighter Information Network-Tactical; and

(3) require, before the initial production decision, that an acceptable demonstration be carried out of the collective capability of each system to meet system-of-systems requirements when integrated with the information network.

(c) REQUIRED SUBMISSIONS TO CONGRESS.—Before convening the Milestone B update for the Future Combat Systems acquisition program required by the Future Combat Systems acquisition decision memorandum, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to Congress each of the following documents:

(1) The independent cost estimate with respect to the program prepared by the cost analysis improvement group of the Office of the Secretary of Defense.

(2) A report, prepared by an independent panel, on the maturity levels of the critical technologies with respect to the program, including an assessment of those technologies that are likely to require a decision to use an alternative approach.

(3) A report, prepared by the chief information officer of the Army, describing—

(A) the status of the development and integration of the network and the command, control, computers, communications, intelligence, surveillance, and reconnaissance components; and

(B) the progress made toward meeting the requirements for network-centric capabilities as set forth by such officer.

(4) A report identifying the key performance parameters with respect to the program, with all objectives and thresholds quantified, together with the supporting analytical rationale.

(d) LIMITATION ON FUNDING.—(1) Except as provided in paragraph (2), the Secretary of the Army may not obligate, from amounts made available for fiscal year 2005, more than $2,200,000,000 for the Future Combat Systems acquisition program.

(2) The limitation in paragraph (1) shall not apply after the Secretary of the Army submits to Congress the Secretary's certification that the Secretary has established and implemented the program strategy required by subsection (a).

SEC. 212. COLLABORATIVE PROGRAM FOR RESEARCH AND DEVELOPMENT OF VACUUM ELECTRONICS TECHNOLOGIES.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish a program for research and development in advanced vacuum electronics to meet the requirements of the Department of Defense electromagnetic systems.

(b) DESCRIPTION OF PROGRAM.—The program under subsection (a) shall be carried out collaboratively by the Director of Defense Research and Engineering, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of the Army, and other appropriate elements of the Department of Defense. The program shall include the following activities:

(1) Activities needed for development and maturation of advanced vacuum electronics technologies needed to meet the requirements of the Department of Defense.

(2) Identification of legacy and developmental electromagnetic systems for use of advanced vacuum electronics under the program.

(c) REPORT.—Not later than January 31, 2005, the Director of Defense Research and Engineering shall submit to the congressional defense committees a report on the implementation of the program under subsection (a). The report shall include the following:

(1) Identification of the officer to have lead responsibility for carrying out the program.

(2) A description of the management plan for the program and any agreements relating to that plan.

(3) A schedule for the program.

(4) Identification of the funding required for fiscal year 2006 and for the future-years defense program to carry out the program.

(5) A list of program capability goals and objectives.

(d) FUNDING.—Of the funds authorized to be appropriated in section 201—

(1) $13,500,000 shall be available in program element 62771N for applied research in vacuum electronics; and

(2) $5,000,000 shall be available in program element 63771N for advanced technology development in vacuum electronics.

SEC. 213. ANNUAL COMPTROLLER GENERAL REPORT ON JOINT STRIKE FIGHTER PROGRAM.

(a) ANNUAL GAO REVIEW.—The Comptroller General shall conduct an annual review of the Joint Strike Fighter aircraft program and shall, not later than March 15 of each year, submit to Congress a report on the results of the most recent review. With each such report, the Comptroller General shall submit a certification as to whether the Comptroller General has had access to sufficient information to enable the Comptroller General to make informed judgments on the matters covered by the report.

(b) MATTERS TO BE INCLUDED.—Each report on the Joint Strike Fighter aircraft program under subsection (a) shall include the following with respect to system development and demonstration under the program:

(1) The extent to which such system development and demonstration is meeting established goals, including the goals established for performance, cost, and schedule.

(2) The plan for such system development and demonstration (leading to production) for the fiscal year that begins in the year in which the report is submitted.

(3) The Comptroller General's conclusion regarding whether such system development and demonstration (leading to production) is likely to be completed at a total cost not in excess of the amount specified (or to be specified) for such purpose in the Selected Acquisition report for the Joint Strike Fighter aircraft program under section 2432 of title 10, United States Code, for the first quarter of the fiscal year during which the report of the Comptroller General is submitted.

(c) REQUIREMENT TO SUPPORT ANNUAL GAO REVIEW.—The Secretary of Defense and the prime contractor for the Joint Strike Fighter aircraft program shall provide to the Comptroller General such information on that program as the Comptroller General considers necessary to carry out the responsibilities of the Comptroller General under this section, including such information as is necessary for the purposes of subsection (b)(3).

(d) TERMINATION.—No report is required under this section after the report that, under subsection (a), is required to be submitted not later than March 15, 2009.

SEC. 214. AMOUNTS FOR UNITED STATES JOINT FORCES COMMAND TO BE DERIVED ONLY FROM DEFENSE-WIDE AMOUNTS.

(a) IN GENERAL.—Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 232. United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts

''(a) REQUIREMENT.—Amounts for research, development, test, and evaluation for the United States Joint Forces Command shall be derived only from amounts made available to the Department of Defense for Defense-wide research, development, test, and evaluation.

''(b) SEPARATE DISPLAY IN BUDGET.—Any amount in the budget submitted to Congress under section 1105 of title 31 for any fiscal year for research, development, test, and evaluation for the United States Joint Forces Command shall be set forth under the account of the Department of Defense for Defense-wide research, development, test, and evaluation.''.

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

''232. United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts.''.

SEC. 215. AUTHORITY OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING TO AWARD PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS.

Section 2374a(a) of title 10, United States Code, is amended by striking ''acting through the Director of the Defense Advanced Research Projects Agency'' and inserting ''acting through the Director of Defense Research and Engineering''.

SEC. 216. SPACE BASED RADAR.

(a) LIMITATION.—In carrying out the Space Based Radar program, the Secretary of Defense may not authorize that program to proceed into the system development and procurement phase referred to as Milestone B until the Secretary—

(1) submits to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report described in subsection (b); and

(2) a period of 30 days has elapsed after the date on which such report is submitted.

(b) REPORT.—A report under this subsection is a report on the Space Based Radar program in which the Secretary of Defense sets forth the following with respect to that program:

(1) A description of the technical system concept selected.

(2) A description of the concept of operations associated with the technical system concept selected.

(3) An independent cost estimate for development and procurement under the program.

(4) The acquisition strategy for the program.

SEC. 217. MARK–54 TORPEDO PRODUCT IMPROVEMENT PROGRAM.

Of the amount provided in section 201 for research, development, test, and evaluation for the Navy, $2,000,000 within the budget line designated as line 120 shall be available for the Mark-54 Torpedo Product Improvement Program.

Subtitle C—Ballistic Missile Defense

SEC. 221. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

(a) AUTHORITY.—Funds described in subsection (b) may, upon approval by the Secretary of Defense, be used for the development and fielding of ballistic missile defense capabilities.

(b) COVERED FUNDS.—Subsection (a) applies to funds appropriated for fiscal year 2005 or fiscal year 2006 for research, development, test, and evaluation for the Missile Defense Agency.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SECTION 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $25,838,611,000.

(2) For the Navy, $29,523,490,000.

(3) For the Marine Corps, $3,637,615,000.

(4) For the Air Force, $27,143,566,000.

(5) For Defense-wide activities, $17,317,406,000.

(6) For the Army Reserve, $2,003,728,000.

(7) For the Naval Reserve, $1,240,038,000.

(8) For the Marine Corps Reserve, $188,696,000

(9) For the Air Force Reserve, $2,226,790,000

(10) For the Army National Guard, $4,425,686,000.

(11) For the Air National Guard, $4,448,938,000.

(12) For the United States Court of Appeals for the Armed Forces, $10,825,000.

(13) For Environmental Restoration, Army, $400,948,000.

(14) For Environmental Restoration, Navy, $266,820,000.

(15) For Environmental Restoration, Air Force, $397,368,000.

(16) For Environmental Restoration, Defense-wide, $23,684,000

(17) For Environmental Restoration, Formerly Used Defense Sites, $216,516,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $59,000,000.

(19) For Cooperative Threat Reduction programs, $409,200,000.

(20) For the Overseas Contingency Operations Transfer Fund, $5,000,000.

(21) For the Defense Industrial Base Capabilities Fund, $50,000,000

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $372,886,000.

(2) For the National Defense Sealift Fund, $1,219,252,000.

(3) For the Defense Working Capital Fund, Defense Commissary, $1,175,000,000

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for the Defense Health Program, $17,811,586,000, of which—

(1) $17,374,544,000 is for Operation and Maintenance;

(2) $72,407,000 is for Research, Development, Test, and Evaluation; and

(3) $364,635,000 is for Procurement.

(b) CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, $1,371,990,000, of which—

(A) $1,138,801,000 is for Operation and Maintenance;

(B) $154,209,000 is for Research, Development, Test, and Evaluation; and

(C) $78,980,000 is for Procurement.

(2) Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, $852,697,000.

(d) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, $193,562,000, of which—

(1) $191,362,000 is for Operation and Maintenance;

(2) $2,100,000 is for Research, Development, Test, and Evaluation; and

(3) $100,000 is for Procurement.

SEC. 304. REIMBURSEMENT OF MEMBERS OF THE ARMED FORCES WHO PURCHASED PROTECTIVE BODY ARMOR DURING SHORTAGE OF DEFENSE STOCKS OF BODY ARMOR.

(a) REIMBURSEMENT AUTHORIZED.—The Secretary of Defense may reimburse a member of the Armed Forces for the cost of protective body armor purchased by the member, or by another person on behalf of the member, for use by the member while deployed in connection with Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom if the member was not issued protective body armor before the member became engaged in operations in areas or situations described in section 310(a)(2) of title 37, United States Code.

(b) DURATION OF AUTHORITY.—Reimbursement may be provided under subsection (a) for protective body armor purchased during the period beginning on September 11, 2001, and ending on December 31, 2003. Not later than 60 days after the date of the enactment of this Act, the Secretary shall implement regulations to expedite the provision of such reimbursement.

Subtitle B—Environmental Provisions

SEC. 311. REPORT REGARDING ENCROACHMENT ISSUES AFFECTING UTAH TEST AND TRAINING RANGE, UTAH.

(a) REPORT REQUIRED.—The Secretary of the Air Force shall prepare a report that outlines current and anticipated encroachments on the use and utility of the special use airspace of the Utah Test and Training Range in the State of Utah, including encroachments brought about through actions of other Federal agencies. The Secretary shall include such recommendations as the Secretary considers appropriate regarding any legislative initiatives necessary to address encroachment problems identified by the Secretary in the report.

(b) SUBMISSION OF REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit the report to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate.

Subtitle C—Workplace and Depot Issues

SEC. 321. SIMPLIFICATION OF ANNUAL REPORTING REQUIREMENTS CONCERNING FUNDS EXPENDED FOR DEPOT MAINTENANCE AND REPAIR WORKLOADS.

Subsection (d) of section 2466 of title 10, United States Code, is amended to read as follows:

''(d) ANNUAL REPORT AND REVIEW.—(1) Not later than April 1 of each year, the Secretary of Defense shall submit to Congress a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of the funds referred to in subsection (a) that was expended during the preceding fiscal year, and are projected to be expended in the current fiscal year and next fiscal year, for performance of depot-level maintenance and repair workloads by the public and private sectors.

''(2) Not later than 60 days after the date on which the Secretary submits a report under paragraph (1), the Comptroller General shall submit to Congress the Comptroller General's views on whether—

''(A) the Department of Defense has complied with the requirements of subsection (a) during the preceding fiscal year covered by the report; and

''(B) the expenditure projections for the current fiscal year and next fiscal year are reasonable.''.

SEC. 322. REPEAL OF ANNUAL REPORTING REQUIREMENT CONCERNING MANAGEMENT OF DEPOT EMPLOYEES.

(a) REPEAL.—Section 2472 of title 10, United States Code, is amended—

(1) by striking ''(a) PROHIBITION ON MANAGEMENT BY END STRENGTH.—''; and

(2) by striking subsection (b).

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§2472. Prohibition on management of depot employees by end strength''.

(2) The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2472 and inserting the following new item:

''2472. Prohibition on management of depot employees by end strength.''.

SEC. 323. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE.

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

''(5)(A) A function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless, the conversion is based on the results of a public-private competition process that—

''(i) formally compares the cost of civilian employee performance of the function with the costs of performance by a contractor;

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

''(iii) determines whether the submitted offers meet the needs of the Department of Defense with respect to factors other than cost, including quality and reliability;

''(iv) requires continued performance of the function by civilian employees if the cost of performance of the function by a contractor would, over all performance periods required by the solicitation, cost less than—

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

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

''(v) provides no advantage to an offeror for a proposal to reduce costs for the Department of Defense by—

''(I) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of such function under a contract; or

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

''(B) Any modification, reorganization, division, or other change in the organization of a function of the Department of Defense so that is performed by less than 10 civilian employees of the Department of Defense and, therefore, excluded from subparagraph (A), is prohibited.

''(C) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient, but the civilian

employees would still provide essentially the same service, is subject to the competition requirement in subparagraph (A).

''(D) The cost savings requirement specified in subparagraph (A) does not apply to any contracts for special studies and analyses, construction services, architectural services, medical services, scientific and technical services related to (but not in support of) research and development, and depot-level maintenance and repair services.

''(E) The Secretary of Defense may waive the competition requirement in specific instances if—

''(i) the written waiver is prepared by the Secretary of Defense, or the relevant Assistant Secretary or agency head;

''(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a public-private competition; and

''(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is invoked, although use of the waiver need not be delayed until its publication.''.

(b) RELATION TO PILOT PROGRAM.—Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a) shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

SEC. 324. PUBLIC-PRIVATE COMPETITION PILOT PROGRAM.

(a) PURPOSE.—The Secretary of Defense shall establish a pilot program to examine the use of the public-private competition process of Office of Management and Budget Circular A–76 on new requirements, as defined by such Circular, and functions currently being performed by contractors that could be performed by civilian employees.

(b) DURATION.—The Secretary of Defense shall carry out the pilot program during fiscal years 2005 and 2006.

(c) REQUIREMENT FOR PUBLIC-PRIVATE COMPETITION FOR NEW WORK.—(1) By the end of the pilot project, the Secretary of Defense shall have allowed civilian employees to compete through the standard competition process of Office of Management and Budget Circular A–76 for new requirements, as defined by such Circular, that are approximately one-tenth in value of the funds spent by the Department of Defense during the two fiscal years of the pilot project on all functions that are considered new requirements, as defined by such Circular.

(2) The Department of Defense shall not receive credit towards compliance with the pilot program for subjecting to public-private competition—

(A) any contract to be awarded to small business concerns that meet the requirements under section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and regulations under that section;

(B) any contract to be performed by contractor employees who are represented by a private sector labor union; or

(C) any contract related to special studies and analyses, construction services, architectural services, medical services, scientific and technical services related to (but not in support of) research and development, and depot-level maintenance and repair services.

(d) FUNCTIONS PERFORMED BY CONTRACTORS.—(1) By the end of the pilot project, the Secretary of Defense shall have subjected a number of contractor employees to public-private competition through the standard competition process of Office of Management and Budget Circular A–76 that is approximately one-tenth of the number of civilian employees subject to public-private competition during the two fiscal years of the pilot project.

(2) The Department of Defense shall, to the extent possible, subject to public-private competition those positions held by contractor employees that are associated with functions that are or have been performed at least in part by Federal employees at any time on or after October 1, 1980; and

(3) Subsection (c)(2) shall also apply to this subsection.

(e) WAIVER.—The implementation of the pilot project may be waived if—

(1) the written waiver is prepared by the Secretary of Defense;

(2) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the competition requirement; and

(3) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is invoked, although use of the waiver need not be delayed until its publication.

(f) REPORT.—At the end of each fiscal year of the pilot program, the Inspector General of the Department of Defense shall submit to Congress a report on the results of the pilot program, including the extent to which the Department of Defense complied with the requirements of this section.

SEC. 325. SENSE OF CONGRESS ON EQUITABLE LEGAL STANDING FOR CIVILIAN EMPLOYEES.

It is the sense of Congress that, in order to ensure that, when public-private competitions are held, they are conducted as fairly, effectively, and efficiently as possible, competing parties, both Department of Defense civilian employees (or their representatives) and contractors (or their representatives) should receive comparable treatment throughout the competition regarding access to relevant information and legal standing to challenge the way a competition has been conducted at all appropriate forums, including the General Accounting Office and the United States Court of Federal Claims.

SEC. 326. COMPETITIVE SOURCING REPORTING REQUIREMENT.

(a) REPORT REQUIRED.—Not later than February 1, 2005, the Inspector General of the Department of Defense shall submit to Congress a report addressing whether the Department of Defense—

(1) employs a sufficient number of adequately trained civilian employees to conduct satisfactorily, taking into account equity, efficiency and expeditiousness, all of the public-private competitions that are scheduled to be undertaken by the Department of Defense during the next fiscal year (including a sufficient number of employees to formulate satisfactorily the performance work statements and most efficient organization plans for the purposes of such competitions) and to administer any resulting contracts; and

(2) has implemented a comprehensive and reliable system to track and assess the cost and quality of the performance of functions of the Department of Defense by service contractors, to update the records of such costs and the assessments each fiscal quarter, and to make such information available in reports to Congress and the public, including through the use of electronic means, except that proprietary information and information to which section 552(b)(1) of title 5, United States Code, applies shall be excised from information published or reports made available.

(b) ELEMENTS OF TRACKING SYSTEM.—The system of the Department of Defense for tracking cost and quality of performance of a function under a service contract shall include at least the following data elements:

(1) The contract number and the applicable Federal supply class or service code.

(2) The name, business address, and business telephone of the agency official who supervises the service contract.

(3) The statutory, regulatory, or other authority for entering into the service contract and, if a public-private competition was not used in the determination of whether to provide for performance of the activity or function by a contractor, an explanation of the reasons for not doing so.

(4) The cost to the Department of Defense of conducting the public-private competition under Office of Management and Budget Circular A–76, if one was undertaken, including the cost of consultants as well as civilian employees.

(5) In the case of a function formerly performed by civilian employees, the actual cost of the performance by such employees.

(6) The cost to the Department of Defense of civilian employee performance of the function under the most efficient organization plan.

(7) The anticipated cost of contractor performance, based on the award.

(8) The cost to the Department of Defense for performance of the function by the contractor.

(9) A description of the quality control process used by the agency in connection with monitoring the contract performance (including the applicable quality control standards and the frequency of the quality control reports), together with an assessment of whether the contractor achieved, exceeded, or failed to achieve the quality control standards.

(c) ASSESSMENT OF TRACKING SYSTEM.—The Inspector General of the Department of Defense shall include in the report required by subsection (a) an assessment of the comprehensiveness and reliability of the Department of Defense system for tracking cost and quality of performance of a function under a service contract, including compliance with each of the requirements specified in subsection (b). The Inspector General shall base the assessment on an audit of a representative sample of service contracts. The report shall also include recommendations by the Inspector General regarding how weaknesses identified in the Department of Defense infrastructure for competitive sourcing can be rectified, whether through the use of different processes or the availability of additional employees, additional training, or additional resources.

Subtitle D—Information Technology

SEC. 331. PREPARATION OF DEPARTMENT OF DEFENSE PLAN FOR TRANSITION TO INTERNET PROTOCOL VERSION 6.

(a) TRANSITION PLAN.—The Secretary of Defense shall prepare a plan to provide for the transition of Department of Defense information technology systems to Internet Protocol version 6 from the present use of Internet Protocol version 4 and other network protocols. The plan shall outline the networking and security system equipment that will need to be replaced, including the timing and costs of such replacement, address how the current and new networks and security systems will be managed, and assess the potential impact of the transition, include any proposed measures to alleviate any adverse affects. In preparing the transition plan, the Secretary shall compare private industry plans for the transition to Internet Protocol version 6.

(b) TESTING AND EVALUATION FOR INTERNET PROTOCOL.—To determine whether a change to the use of Internet Protocol version 6 will support Department of Defense requirements, the Secretary of Defense shall provide for a rigorous, real-world end-to-end testing of Internet Protocol version 6, as proposed for use by the Department, to evaluate the following:

(1) The ability of Internet Protocol version 6, with its ''best effort'' quality of service, to satisfactory support the Department's multiple applications and other information technology systems, including the use of Internet Protocol version 6 over bandwidth-constrained tactical circuits.

(2) The ability of the Department's networks using Internet Protocol version 6 to respond to, and perform under, heavy loading of the core networks.

(c) SUBMISSION OF PLAN AND RESULTS.—Not later than March 31, 2005, the Secretary of Defense shall submit to the congressional defense

committees a report containing the transition plan prepared under subsection (a) and the results of the tests conducted under subsection (b).

SEC. 332. DEFENSE BUSINESS ENTERPRISE ARCHITECTURE, SYSTEM ACCOUNTABILITY, AND CONDITIONS FOR OBLIGATION OF FUNDS FOR DEFENSE BUSINESS SYSTEM MODERNIZATION.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by inserting before section 2223 the following new section:

"§ 2222. Defense business systems: architecture, accountability, and modernization

''(a) CONDITIONS FOR OBLIGATION OF FUNDS FOR DEFENSE BUSINESS SYSTEM MODERNIZATION.—Effective January 1, 2005, funds appropriated to the Department of Defense may not be obligated for a defense business system modernization that will have a total cost in excess of $1,000,000 unless—

''(1) the approval authority designated for the defense business system certifies to the Defense Business Systems Management Committee established by section 186 of this title that the defense business system modernization—

''(A) is in compliance with the enterprise architecture developed under subsection (b), or such compliance is waived in writing by the approval authority as a result of the investment review process conducted under subsection (d) for the defense business system modernization; and

''(B) will be acquired or developed in a manner consistent with the system acquisition regulations and instructions of the Department of Defense; and

''(2) the Defense Business Systems Management Committee approves the certification by the approval authority.

''(b) ENTERPRISE ARCHITECTURE FOR DEFENSE BUSINESS SYSTEMS.—Not later than September 30, 2005, the Secretary of Defense, acting through the Defense Business Systems Management Committee, shall develop—

''(1) an enterprise architecture to cover all defense business systems, and the functions and activities supported by defense business systems, which shall be sufficiently defined to effectively guide, constrain, and permit implementation of interoperable defense business system solutions and consistent with the policies and procedures established by the Director of the Office of Management and Budget, and

''(2) a transition plan for implementing the enterprise architecture for defense business systems.

''(c) APPROVAL AUTHORITIES AND ACCOUNTABILITY FOR DEFENSE BUSINESS SYSTEMS.—The Secretary of Defense shall delegate responsibility for the planning, design, acquisition, deployment, operation, maintenance, modernization, and oversight of defense business systems as follows:

''(1) The Under Secretary of Defense for Acquisition, Technology and Logistics shall be responsible and accountable for any defense business system the primary purpose of which is to support acquisition activities, logistics activities, or installations and environment activities of the Department of Defense.

''(2) The Under Secretary of Defense (Comptroller) shall be responsible and accountable for any defense business system the primary purpose of which is to support financial management activities or strategic planning and budgeting activities of the Department of Defense.

''(3) The Under Secretary of Defense for Personnel and Readiness shall be responsible and accountable for any defense business system the primary purpose of which is to support human resource management activities of the Department of Defense.

''(4) The Assistant Secretary of Defense for Networks and Information Integration and the Chief Information Officer of the Department of Defense shall be responsible and accountable for any defense business system the primary purpose of which is to support information technology infrastructure or information assurance activities of the Department of Defense.

''(5) The Deputy Secretary of Defense or an Under Secretary of Defense, as designated by the Secretary of Defense, shall be responsible for any defense business system the primary purpose of which is to support any activity of the Department of Defense not covered by paragraphs (1) through (4).

''(d) DEFENSE BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The Secretary of Defense shall require each approval authority designated under subsection (c) to establish, not later than March 15, 2005, an investment review process, consistent with section 11312 of title 40, to review the planning, design, acquisition, development, deployment, operation, maintenance, modernization, and project cost benefits and risks of all defense business systems for which the approval authority is responsible. The investment review process so established shall specifically address the responsibilities of approval authorities under subsection (a).

''(2) The review of defense business systems under the investment review process shall include the following:

''(A) Review and approval by an investment review board of each defense business system as an investment before the obligation of funds on the system.

''(B) Periodic review, but not less than annually, of every defense business system investment.

''(C) Representation on each investment review board by appropriate officials from among the armed forces, combatant commands, the Joint Chiefs of Staff, and Defense Agencies.

''(D) Use of threshold criteria to ensure an appropriate level of review within the Department of Defense of, and accountability for, defense business system investments depending on scope, complexity, and cost.

''(e) BUDGET INFORMATION.—In the materials that the Secretary submits to Congress in support of the budget submitted by the President to Congress under section 1105 of title 31 for fiscal year 2006 and fiscal years thereafter, the Secretary of Defense shall—

''(1) identify the approval authority for each defense business system; and

''(2) for each defense business system for which funding is proposed in the budget—

''(A) certify that the defense business system complies with the defense business enterprise architecture; or

''(B) explain why funds for such system are necessary to maintain a mission critical or mission essential system of the Department of Defense, notwithstanding its noncompliance with the defense business enterprise architecture.

''(f) CONGRESSIONAL REPORTS.—Not later than March 15 of each year from 2005 through 2009, the Secretary of Defense shall submit to the congressional defense committees a report on Department of Defense compliance with the requirements of this section. The first report shall define plans and commitments for meeting the requirements of subsection (a), including specific milestones and performance measures. Subsequent reports shall—

''(1) describe actions taken and planned for meeting the requirements of subsection (a), including—

''(A) specific milestones and actual performance against specified performance measures, and any revision of such milestones and performance measures; and

''(B) specific actions on the defense business system modernizations submitted for certification under such subsection;

''(2) identify the number of defense business system modernizations so certified;

''(3) identify any defense business system modernization with an obligation in excess of $1,000,000 during the preceding fiscal year that was not certified under subsection (a), and the reasons for the waiver; and

''(4) discuss specific improvements in business operations and cost savings resulting from successful defense business systems modernization efforts.

''(g) DEFINITIONS.—In this section:

''(1) The term 'approval authority', with respect to a defense business system, means the Department of Defense official responsible for the defense business system, as designated by subsection (c).

''(2) The term 'defense business system' means an information system, other than a national security system, operated by, for, or on behalf of the Department of Defense, including financial systems, mixed systems, financial data feeder systems, and information technology and information assurance infrastructure, used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

''(3) The term 'defense business system modernization' means—

''(A) the acquisition or development of a new defense business system; or

''(B) any significant modification or enhancement of an existing defense business system (other than necessary to maintain current services).

''(4) The term 'enterprise architecture' has the meaning given that term in section 3601(4) of title 44.

''(5) The terms 'information system' and 'information technology' have the meanings given those terms in section 11101 of title 40.

''(6) The term 'national security system' has the meaning given that term in section 2315 of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2223 the following new item:

''2222. Defense business systems: architecture, accountability, and modernization.''.

(b) DEFENSE BUSINESS SYSTEM MANAGEMENT COMMITTEE.—Chapter 7 of such title is amended by adding at the end the following new section:

"§ 186. Defense business system management Committee

''(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Defense Business Systems Management Committee, to be composed of the following persons:

''(1) The Deputy Secretary of Defense, who shall serve as the chairman of the Committee.

''(2) The Under Secretary of Defense for Acquisition, Logistics, and Technology.

''(3) The Under Secretary of Defense for Personnel and Readiness.

''(4) The Under Secretary of Defense (Comptroller).

''(5) The Assistant Secretary of Defense for Networks and Information Integration.

''(6) The Secretaries of the military departments and the heads of the Defense Agencies.

''(7) Such additional personnel of the Department of Defense (including personnel assigned to the Joint Chiefs of Staff and combatant commands) as are designated by the Secretary of Defense.

''(b) DUTIES.—(1) In addition to any other matters assigned to the Committee by the Secretary of Defense, the Committee shall—

''(A) recommend to the Secretary of Defense policies and procedures necessary to effectively integrate the requirements of section 2222 of this title into all business activities and any transformation, reform, reorganization, or process improvement initiatives undertaken within the Department of Defense; and

''(B) review and approve any major update of the defense business enterprise architecture developed under subsection (b) of section 2222 of this title, including evolving the architecture, and of defense business systems modernization plans.

''(2) The Committee shall be responsible for coordinating defense business system modernization initiatives to maximize benefits and minimize costs for the Department of Defense and periodically report to the Secretary on the status of defense business system modernization efforts.

''(3) The Committee shall ensure that funds are obligated for defense business system modernization in a manner consistent with section 2222 of this title.

''(c) DEFINITIONS.—In this section, the terms 'defense business system' and 'defense business system modernization' have the meanings given such terms in section 2222 of this title.''.

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

''186. Defense Business System Management Committee.''.

(c) DELEGATION OF ADMINISTRATIVE RESPONSIBILITY.—The delegation of responsibility for the planning, design, acquisition, deployment, operation, maintenance, modernization, and oversight of defense business systems required by subsection (c) of section 2222 of title 10, United States Code, as added by subsection (a)(1), shall be completed not later than 60 days after the date of the enactment of this Act.

(d) RELATION TO ANNUAL REGISTRATION REQUIREMENTS.—Nothing in sections 186 and 2222 of title 10, United States Code, as added by this section, shall be construed to alter the requirements of section 8084 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1091), with regard to information technology systems (as defined in subsection (d) of such section).

(e) REPEAL OF OBSOLETE FINANCIAL MANAGEMENT ENTERPRISE ARCHITECTURE REQUIREMENTS.—Section 1004 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 10 U.S.C. 113 note) is repealed.

SEC. 333. ESTABLISHMENT OF JOINT PROGRAM OFFICE TO IMPROVE INTEROPERABILITY OF BATTLEFIELD MANAGEMENT COMMAND AND CONTROL SYSTEMS.

(a) OFFICE FOR FAMILY OF INTEROPERABLE PICTURES.—The Secretary of Defense shall designate a single joint program office in the Department of Defense for the management of battlefield management command and control systems of the Armed Forces, known as the ''Family of Interoperable Pictures'', to improve the interoperability of such systems so that members of the Armed Forces may access a common operational picture of the battlefield. The office shall include at a minimum the Single Integrated Air Picture, the Single Integrated Ground Picture, the Single Integrated Maritime Picture, the Special Operations Forces Picture, and the Single Integrated Space Picture. The Secretary shall provide for the head of the office to be selected on a rotating basis among related offices of the Army, Navy, Air Force, and Marine Corps.

(b) COMMON SYSTEMS ARCHITECTURE.—The Secretary of Defense shall develop, implement, and maintain a common systems architecture for all battlefield management command and control systems included in the Family of Interoperable Pictures.

(c) CONSOLIDATED PROGRAM ELEMENTS.—All funds for development and procurement related to the Family of Interoperable Pictures shall be consolidated under the office designated under subsection (a).

(d) PROGRAM DEVELOPMENT.—The head of the office designated under subsection (a), subject to the authority, direction, and control of the Secretary of Defense, shall—

(1) establish and control the performance specifications for the battlefield management command and control systems included in the Family of Interoperable Pictures;

(2) establish and control the standards for development of the software and equipment for the Family of Interoperable Pictures;

(3) establish and control the standards for operation of the Family of Interoperable Pictures; and

(4) develop a single, unified concept of operations for all users of the Family of Interoperable Pictures.

Subtitle E—Readiness Reporting Requirements

SEC. 341. ANNUAL REPORT ON DEPARTMENT OF DEFENSE OPERATION AND FINANCIAL SUPPORT FOR MILITARY MUSEUMS.

(a) REPORT REQUIRED.—Chapter 23 of title 10, United States Code, is amended by adding at the end the following new section:

''§489. Annual report on Department of Defense operation and financial support for military museums

''(a) REPORT REQUIRED.—As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report identifying all museums that, during the preceding fiscal year—

''(1) were operated by the Department of Defense or a military department; or

''(2) were otherwise supported using funds appropriated to the Department of Defense.

''(b) CONTENT OF REPORT.—For each museum identified in a report under this section, the Secretary of Defense shall include in the report the following:

''(1) The purpose and functions of the museum and the justification for the museum

''(2) A description of the facilities dedicated to the museum.

''(3) An itemized listing of the funds appropriated to the Department of Defense that were obligated to support the museum during the fiscal year covered by the report, as well as any other Federal funds, funds from a non-appropriated fund instrumentality account of the Department of Defense, and non-Federal funds obligated to support the museum.

''(4) The number of civilian employees of the Department of Defense who serve full-time or part-time at the museum.

''(5) The number of members of the armed forces who serve full-time or part-time at the museum.''.

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

''489. Annual report on Department of Defense operation and financial support for military museums.''.

SEC. 342. REPORT ON DEPARTMENT OF DEFENSE PROGRAMS FOR PREPOSITIONING OF MATERIAL AND EQUIPMENT.

(a) SECRETARY OF DEFENSE ASSESSMENT AND REPORT.—(1) The Secretary of Defense shall conduct an assessment of the programs of the Department of Defense for the prepositioning of material and equipment. Such assessment shall particularly focus on how those programs will be incorporated into achievement of the goals of the Secretary of Defense (referred to as the ''10–30–30'' goals) for the Armed Forces to have the capability, from the onset of a contingency situation, of deploying forces to a distant theater within 10 days, defeating an enemy within 30 days, and being ready for an additional conflict within another 30 days.

(2) The Secretary shall submit to Congress a report on such assessment not later than October 1, 2005.

(b) MATTERS TO BE INCLUDED.—The assessment under subsection (a) shall include the prepositioning programs of each of the Armed Forces and of the United States Special Operations Command as well as assessment of each of the following:

(1) Use of prepositioned equipment as part of Operation Iraqi Freedom and Operation Enduring Freedom and potential solutions to identified challenges.

(2) Changes to doctrine, strategy, and transportation plans to support the goals of the Secretary described in subsection (a) and referred to as the 10–30–30 goals in light of the current lift constraints facing both land and sea components of lift as well as the emerging mobility requirements.

(3) Modifications of the prepositioning programs of the Armed Forces in order to adapt to pending modularity concepts, future force structure changes, and new sea basing concepts in relation to current and potential areas of instability.

(4) Joint operations and training that include theater opening requirements at potential aerial and sea ports of debarkation, joint force reception capabilities, joint theater distribution operations, and use of joint prepositioned stocks and systems.

Subtitle F—Other Matters

SEC. 351. EXTENSION OF ARSENAL SUPPORT PROGRAM INITIATIVE.

(a) DURATION OF PROGRAM.—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 10 U.S.C. 4551 note) is amended by striking ''2004'' and inserting ''2008''.

(b) ADDITIONAL REPORT REQUIRED.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking ''2004'' and inserting ''2008''; and

(2) in paragraph (2), by striking ''2003'' and inserting ''2007''.

SEC. 352. LIMITATION ON PREPARATION OR IMPLEMENTATION OF MID-RANGE FINANCIAL IMPROVEMENT PLAN.

Amounts appropriated to the Department of Defense for fiscal year 2005 for operation and maintenance may not be obligated for the purpose of preparing or implementing the Mid-Range Financial Improvement Plan until the Secretary of Defense submits a report to the congressional defense committees containing, for each of the military departments and the Defense Agencies—

(1) an explanation of the manner in which funds will be used for such purpose during that fiscal year; and

(2) an estimate of the costs for future fiscal years to prepare and implement the plan.

SEC. 353. PROCUREMENT OF FOLLOW-ON CONTRACTS FOR THE OPERATION OF FIVE CHAMPION-CLASS T–5 TANK VESSELS.

The Secretary of the Navy may consider bids or proposals for the follow-on contracts for the Department of the Navy contracts for the operation of five Champion-class T–5 tank vessels only from an entity that is a citizen under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802).

SEC. 354. SENSE OF CONGRESS ON AMERICA'S NATIONAL WORLD WAR I MUSEUM.

(a) FINDINGS.—The Congress finds as follows:

(1) The Liberty Memorial Museum in Kansas City, Missouri, was built in 1926 in honor of those individuals who served in World War I in defense of liberty and the Nation.

(2) The Liberty Memorial Association, a nonprofit organization which originally built the Liberty Memorial Museum, is responsible for the finances, operations, and collections management of the Liberty Memorial Museum.

(3) The Liberty Memorial Museum is the only public museum in the Nation that exists for the exclusive purpose of interpreting the experiences of the United States and its allies in the World War I years (1914–1918), both on the battlefield and on the home front.

(4) The Liberty Memorial Museum project began after the 1918 Armistice through the efforts of a large-scale, grass-roots civic and fundraising effort by the citizens and veterans of the

Kansas City metropolitan area. After the conclusion of a national architectural design competition, ground was broken in 1921, construction began in 1923, and the Liberty Memorial Museum was opened to the public in 1926.

(5) In 1994, the Liberty Memorial Museum closed for a massive restoration and expansion project. The restored museum reopened to the public on Memorial Day, 2002, during a gala rededication ceremony.

(6) Exhibits prepared for the original museum buildings presaged the dramatic, underground expansion of core exhibition gallery space, with over 30,000 square feet of new interpretive and educational exhibits currently in development. The new exhibits, along with an expanded research library and archives, will more fully utilize the many thousands of historical objects, books, maps, posters, photographs, diaries, letters, and reminiscences of World War I participants that are preserved for posterity in the Liberty Memorial Museum's collections. The new core exhibition is scheduled to open on Veterans Day, 2006.

(7) The City of Kansas City, the State of Missouri, and thousands of private donors and philanthropic foundations have contributed millions of dollars to build and later to restore this national treasure. The Liberty Memorial Museum continues to receive the strong support of residents from the States of Missouri and Kansas and across the Nation.

(8) Since the restoration and rededication of 2002, the Liberty Memorial Museum has attracted thousands of visitors from across the United States and many foreign countries.

(9) There remains a need to preserve in a museum setting evidence of the honor, courage, patriotism, and sacrifice of those Americans who offered their services and who gave their lives in defense of liberty during World War I, evidence of the roles of women and African Americans during World War I, and evidence of other relevant subjects.

(10) The Liberty Memorial Museum seeks to educate a diverse group of audiences through its comprehensive collection of historical materials, emphasizing eyewitness accounts of the participants on the battlefield and the home front and the impact of World War I on individuals, then and now. The Liberty Memorial Museum continues to actively acquire and preserve such materials.

(11) A great opportunity exists to use the invaluable resources of the Liberty Memorial Museum to teach the ''Lessons of Liberty'' to the Nation's schoolchildren through on-site visits, classroom curriculum development, distance learning, and other educational initiatives.

(12) The Liberty Memorial Museum should always be the Nation's museum of the national experience in the World War I years (1914–1918), where people go to learn about this critical period and where the Nation's history of this monumental struggle will be preserved so that generations of the 21st century may understand the role played by the United States in the preservation and advancement of democracy, freedom, and liberty in the early 20th century.

(13) This initiative to recognize and preserve the history of the Nation's sacrifices in World War I will take on added significance as the Nation approaches the centennial observance of this event.

(14) It is fitting and proper to refer to the Liberty Memorial Museum as ''America's National World War I Museum''.

(b) SENSE OF CONGRESS.—The Congress—

(1) recognizes the Liberty Memorial Museum in Kansas City, Missouri, including the museum's future and expanded exhibits, collections, library, archives, and educational programs, as ''America's National World War I Museum'';

(2) recognizes that the continuing collection, preservation, and interpretation of the historical objects and other historical materials held by the Liberty Memorial Museum enhance the knowledge and understanding of the Nation's people of the American and allied experience during the World War I years (1914–1918), both on the battlefield and on the home front;

(3) commends the ongoing development and visibility of ''Lessons of Liberty'' educational outreach programs for teachers and students throughout the Nation; and

(4) encourages the need for present generations to understand the magnitude of World War I, how it shaped the Nation, other countries, and later world events, and how the sacrifices made then helped preserve liberty, democracy, and other founding principles for generations to come.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2005, as follows:

(1) The Army, 482,400.

(2) The Navy, 365,900.

(3) The Marine Corps, 175,000.

(4) The Air Force, 359,700.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Effective October 1, 2004, section 691(b) of title 10, United States Code, is amended as follows:

(1) NAVY.—Paragraph (2) is amended by striking ''373,800'' and inserting ''365,900''.

(2) AIR FORCE.—Paragraph (4) is amended by striking ''359,300'' and inserting ''359,700''.

SEC. 403. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.

During fiscal year 2005, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 10,300.

(2) The Army Reserve, 5,000.

(3) The Naval Reserve, 6,200.

(4) The Marine Corps Reserve, 2,500.

(5) The Air National Guard of the United States, 10,100.

(6) The Air Force Reserve, 3,600.

SEC. 404. ACCOUNTING AND MANAGEMENT OF RESERVE COMPONENT PERSONNEL PERFORMING ACTIVE DUTY OR FULL-TIME NATIONAL GUARD DUTY FOR OPERATIONAL SUPPORT.

(a) STRENGTH AUTHORIZATIONS.—Section 115 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by inserting ''unless on active duty pursuant to subsection (b)'' after ''active-duty personnel'';

(2) in subsection (a)(1)(B), by inserting ''unless on active duty or full-time National Guard duty pursuant to subsection (b)'' after ''reserve personnel'';

(3) by redesignating subsections (b), (c), (d), (e), (f), (g) and (h) as subsections (c), (d), (e), (f), (g), (h) and (i), respectively; and

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

''(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE AUTHORIZED BY LAW.—(1) Congress shall annually authorize the maximum number of members of a reserve component permitted to be on active duty or full-time National Guard duty at any given time who are called or ordered to—

''(A) active duty under section 12301(d) of this title for the purpose of providing operational support, as prescribed in regulation issued by the Secretary of Defense;

''(B) full-time National Guard duty under section 502(f)(2) of title 32 for the purpose of providing operational support when authorized by the Secretary of Defense;

''(C) active duty under section 12301(d) of this title or full-time National Guard duty under section 502(f) of title 32 for the purpose of preparing for and performing funeral honors functions for funerals of veterans under section 1491 of this title;

''(D) active duty or retained on active duty under sections 12301(g) of this title while in a captive status; or

''(E) active duty or retained on active duty under 12301(h) or 12322 of this title for the purpose of medical evaluation or treatment.

''(2) A member of a reserve component who exceeds either of the following limits shall be included in the strength authorized under subparagraph (A) or subparagraph (B), as appropriate, of subsection (a)(1):

''(A) A call or order to active duty or full-time National Guard duty that specifies a period greater than three years.

''(B) The cumulative periods of active duty and full-time National Guard duty performed by the member exceed 1095 days in the previous 1460 days.

''(3) In determining the period of active service under paragraph (2), the following periods of active service performed by a member shall not be included:

''(A) All periods of active duty performed by a member who has not previously served in the Selected Reserve of the Ready Reserve.

''(B) All periods of active duty or full-time National Guard duty for which the member is exempt from strength accounting under paragraphs (1) through (7) of subsection (i).''.

(b) LIMITATION ON APPROPRIATIONS.—Subsection (c) of such section (as redesignated by subsection (a)(3)) is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(3) by inserting after paragraph (2) the following new paragraph:

''(3) the use of reserve component personnel to perform active duty or full-time National Guard duty under subsection (b) unless the strength for such personnel for that reserve component for that fiscal year has been authorized by law.''.

(c) AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES IN MAXIMUM STRENGTHS.—Subsection (f) of such section (as redesignated by subsection (a)(2)) is amended—

(1) by striking ''END'' in the heading;

(2) by striking ''and'' at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting ''; and''; and

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

''(4) increase the maximum strength authorized pursuant to subsection (b)(1) for a fiscal year for certain reserves on active duty for any of the reserve components by a number equal to not more than 10 percent of that strength.''.

(d) CONFORMING AMENDMENTS TO SECTION 115.— Such section is further amended as follows:

(1) Subsection (e) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (1), by striking ''subsection (a) or (c)'' and inserting ''subsection (a) or (d)''; and

(B) in paragraph (2)—

(i) by striking ''subsections (a) and (c)''; and inserting ''subsections (a) and (d)'';

(ii) by striking ''pursuant to subsection (e)) and subsection (c)'' and inserting ''pursuant to subsection (f)) and subsection (d)'' each place it appears.

(2) Subsection (g) (as redesignated by subsection (a)(3)) is amended by striking ''subsection (e)(1)'' in paragraph (2) and inserting ''subsection (f)(1)''.

(3) Subsection (i) (as redesignated by subsection (a)(3)) is amended to read as follows:

''(i) CERTAIN PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.— In counting personnel for the purpose of the end strengths authorized pursuant to subsection

(a)(1), persons in the following categories shall be excluded:

''(1) Members of a reserve component ordered to active duty under section 12301(a) of this title.

''(2) Members of a reserve component in an active status ordered to active duty under section 12301(b) of this title.

''(3) Members of the Ready Reserve ordered to active duty under section 12302 of this title.

''(4) Members of the Selected Reserve of the Ready Reserve or members of the Individual Ready Reserve mobilization category described in section 10144(b) of this title ordered to active duty under section 12304 of this title.

''(5) Members of the National Guard called into Federal service under section 12406 of this title.

''(6) Members of the militia called into Federal service under chapter 15 of this title.

''(7) Members of reserve components on active duty for training.

''(8) Members of the Selected Reserve of the Ready Reserve on active duty to support programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952(b)).

''(9) Members of the National Guard on active duty or full-time National Guard duty for the purpose of carrying out drug interdiction and counter-drug activities under section 112 of title 32.

''(10) Members of a reserve component on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

''(11) Members of the National Guard on full-time National Guard duty for the purpose of providing command, administrative, training, or support services for the National Guard Challenge Program authorized by section 509 of title 32.''.

(e) MILITARY TO MILITARY CONTACT STRENGTH ACCOUNTING.—Subsection (f) of section 168 of such title is amended to read as follows:

''(f) ACTIVE DUTY END STRENGTHS.—A member of a reserve component who is engaged in activities authorized under this section shall not be counted for purposes of the following personnel strength limitations:

''(1) The end strength for active-duty personnel authorized pursuant to section 115(a)(1) of this title for the fiscal year in which the member carries out the activities referred to under this section.

''(2) The authorized daily average for members in pay grades E–8 and E–9 under section 517 of this title for the calendar year in which the member carries out such activities.

(3) The authorized strengths for commissioned officers under section 523 of this title for the fiscal year in which the member carries out such activities.

(f) E–8 AND E–9 STRENGTH ACCOUNTING.—Subsection (a) of section 517 of such title is amended by striking ''(other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve component of an armed force.'' and inserting ''as authorized under section 115(a)(1)(B) or 115(b) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title.''.

(g) FIELD GRADE OFFICER STRENGTH ACCOUNTING.—(1) Paragraph (1) of section 523(b) of such title is amended to read as follows:

''(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title;

''(B) on active duty under section 10211, 10302 through 10305, or 12402 of this title or under section 708 of title 32; or

''(C) on full-time National Guard duty.''; and

(2) Paragraph (7) of section 523(b) is amended by striking ''Reserve or retired officers'' and inserting ''Retired officers''.

(h) ACTIVE GUARD AND RESERVE FIELD GRADE OFFICER STRENGTH ACCOUNTING.—Paragraph (2) of section 12011(e) of such title is amended to read as follows:

''(2) Full-time National Guard duty (other than for training) under section 502(f) of title 32, except for duty under section 115(b)(1)(B) and (C) of this title and section 115(i)(9) of this title.''.

(i) WARRANT OFFICER ACTIVE-DUTY LIST EXCLUSION.—Paragraph (1) of section 582 of such title is amended to read as follows:

''(1) Reserve warrant officers—

''(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title; or

''(B) on full-time National Guard duty.''.

(j) OFFICER ACTIVE-DUTY LIST, APPLICABILITY OF CHAPTER.—Paragraph (1) of section 641 of such is amended to read as follows:

''(1) Reserve officers—

''(A) on active duty authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title;

''(B) on active duty under section 3038, 5143, 5144, 8038, 10211, 10301 through 10305, 10502, 10505, 10506(a), 10506(b), 10507, or 12402 of this title or section 708 of title 32; or

''(C) on full-time National Guard duty.''.

(k) STRENGTH ACCOUNTING FOR MEMBERS PERFORMING DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.—Section 112 of title 32, United States Code, is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (f), (g), (h) and (i) as subsections (e), (f), (g) and (h) respectively; and

(3) in paragraph (1) of subsection (e), as redesignated by paragraph (2), by striking ''for a period of more than 180 days'' each place it appears.

(l) REPORT.—Not later than June 1, 2005, the Secretary of Defense shall report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the Secretary's recommendations regarding the exemptions provided in paragraphs (8) through (11) by section 115(i) of title 10, United States Code, as amended by this section. The recommendations shall address the manner in personnel covered by those exemptions shall be accounted for in authorizations provided by section 115 of such title. The objective of the analysis should be to terminate the need for such exemptions after September 30, 2006.

(m) REGULATIONS.—The Secretary of Defense shall prescribe by regulation the meaning of the term ''operational support'' for purposes of paragraph (1) of subsection (b) of section 115 of title 10, United States Code, as added by subsection (a).

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2005, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 83,400.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 106,800.

(6) The Air Force Reserve, 76,100.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2005, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,476.

(2) The Army Reserve, 14,970.

(3) The Naval Reserve, 14,152.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 12,225.

(6) The Air Force Reserve, 1,900.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2005 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 7,299.

(2) For the Army National Guard of the United States, 25,076.

(3) For the Air Force Reserve, 9,954.

(4) For the Air National Guard of the United States, 22,956.

SEC. 414. FISCAL YEAR 2005 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—(1) Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2005, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) The number of non-dual status technicians employed by the Army Reserve as of September 30, 2005, may not exceed 795.

(3) The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2005, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term ''non-dual status technician'' has the meaning given that term in section 10217(a) of title 10, United States Code.

Subtitle C—Authorizations of Appropriations

SEC. 421. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2005 a total of $104,647,558,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2005.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2005 from the Armed Forces Retirement Home Trust Fund the sum of

$61,195,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—General and Flag Officer Matters

SEC. 501. LENGTH OF SERVICE FOR SERVICE CHIEFS.

(a) CHIEF OF STAFF OF THE ARMY.—Paragraph (1) of section 3033(a) of title 10, United States Code, is amended—

(1) by striking ''for a period of four years'' in the first sentence; and

(2) by striking the second and third sentences and inserting the following: ''The Chief of Staff serves at the pleasure of the President for a term of four years. The President may extend the service of an officer as Chief of Staff for an additional period of not to exceed two years. In time of war or during a national emergency declared by Congress, the President may extend the service of an officer as Chief of Staff for such additional periods as the President determines necessary, except that the total period of an officer's service as Chief of Staff may not exceed eight years.''.

(b) CHIEF OF NAVAL OPERATIONS.—Paragraph (1) of section 5033(a) of such title is amended by striking the third and fourth sentences and inserting the following: ''The Chief of Naval Operations serves at the pleasure of the President. The President may extend the service of an officer as Chief of Naval Operations for an additional period of not to exceed two years. In time of war or during a national emergency declared by Congress, the President may extend the service of an officer as Chief of Naval Operations for such additional periods as the President determines necessary, except that the total period of an officer's service as Chief of Naval Operations may not exceed eight years.''.

(c) COMMANDANT OF THE MARINE CORPS.—Paragraph (1) of section 5043(a) of such title is amended by striking the third and fourth sentences and inserting the following: ''The Commandant serves at the pleasure of the President. The President may extend the service of an officer as Commandant for an additional period of not to exceed two years. In time of war or during a national emergency declared by Congress, the President may extend the service of an officer as Commandant for such additional periods as the President determines necessary, except that the total period of an officer's service as Commandant may not exceed eight years.''.

(d) CHIEF OF STAFF OF THE AIR FORCE.—Paragraph (1) of section 8033(a) of such title is amended to read as follows:

(1) by striking ''for a period of four years'' in the first sentence; and

(2) by striking the second and third sentences and inserting the following: ''The Chief of Staff serves at the pleasure of the President for a period of four years. The President may extend the service of an officer as Chief of Staff for an additional period of not to exceed two years. In time of war or during a national emergency declared by Congress, the President may extend the service of an officer as Chief of Staff for such additional periods as the President determines necessary, except that the total period of an officer's service as Chief of Staff may not exceed eight years.''.

SEC. 502. REPEAL OF REQUIREMENT THAT DEPUTY CHIEFS AND ASSISTANT CHIEFS OF NAVAL OPERATIONS BE SELECTED FROM OFFICERS IN THE LINE OF THE NAVY.

(a) DEPUTY CHIEFS OF NAVAL OPERATIONS.—Section 5036(a) of title 10, United States Code, is amended by striking ''in the line''.

(b) ASSISTANT CHIEFS OF NAVAL OPERATIONS.—Section 5037(a) of such title is amended by striking ''in the line''.

SEC. 503. INCREASE IN AGE LIMIT FOR DEFERRAL OF MANDATORY RETIREMENT FOR UP TO 10 SENIOR GENERAL AND FLAG OFFICERS.

Section 1251(b) of title 10, United States Code, is amended by striking ''64 years of age'' and inserting ''66 years of age''.

SEC. 504. INCREASED FLEXIBILITY FOR VOLUNTARY RETIREMENT FOR MILITARY OFFICERS.

(a) IN GENERAL.—Section 1370 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''except as provided in paragraph (2)'' and inserting ''subject to paragraphs (2) and (3)''; and

(ii) by striking '', for not less than six months'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by striking paragraph (2) and inserting the following:

''(2) In order to be eligible for voluntary retirement under this title in a grade below the grade of lieutenant colonel or commander, a commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by paragraph (1) must have served on active duty in that grade for not less than six months.

''(3)(A) In order to be eligible for voluntary retirement in a grade above major or lieutenant commander and below brigadier general or rear admiral (lower half), a commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by paragraph (1) must have served on active duty in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of the military department concerned to reduce such period to a period not less than two years.

''(B) In order to be eligible for voluntary retirement in a grade above colonel or captain, in the case of the Navy, a commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by paragraph (1) must have served on active duty in that grade for not less than one year.

''(C) An officer in a grade above major general or rear admiral may be retired in the highest grade in which the officer served on active duty satisfactorily for not less than one year, upon approval by the Secretary of the military department concerned and concurrence by the Secretary of Defense. The function of the Secretary of Defense under the preceding sentence may only be delegated to a civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

''(D) The President may waive subparagraph (A), (B) or (C) in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under the preceding sentence may not be delegated.'';

(2) in subsection (b), by inserting ''or whose service on active duty in that grade was not determined to be satisfactory by the Secretary of the military department concerned'' after ''specified in subsection (a)'';

(3) by striking subsection (c); and

(4) by redesignating subsection (d) as subsection (c) and in that subsection—

(A) in paragraph (3)—

(i) in subparagraph (A)—

(I) by inserting ''(i)'' after ''(3)(A)'';

(II) by inserting ''and below brigadier general or rear admiral (lower half)'' after ''lieutenant commander'';

(III) by inserting '', except that the Secretary of Defense may authorize the Secretary of the military department concerned to reduce such period to a period not less than two years'' after ''three years''; and

(IV) by adding at the end the following new clauses:

''(ii) In order to be credited with satisfactory service in a grade above colonel or captain, in the case of the Navy, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in active status, or in a retired status on active duty, for not less than one year.

''(iii) An officer covered by paragraph (1) who is in a grade above the grade of major general or rear admiral may be retired in the highest grade in which the officer served satisfactorily for not less than one year, upon approval by the Secretary of the military department concerned and concurrence by the Secretary of Defense. The function of the Secretary of Defense under the preceding sentence may only be delegated to a civilian official in the Office of the Secretary of Defense appointed by the president, by and with the advice and consent of the Senate.'';

(ii) in subparagraphs (D) and (E), by striking subparagraph (A)'' and inserting ''subparagraph (A)(i)''; and

(iii) by striking subparagraph (F); and

(B) by striking paragraphs (5) and (6); and

(5) by striking subsection (e).

(b) CONFORMING AMENDMENTS.—Section 1406(i)(2) of such title is amended—

(1) in the paragraph heading, by striking ''MEMBERS'' and all that follows through ''SATISFACTORILY'' and inserting ''ENLISTED MEMBERS REDUCED IN GRADE'';

(2) by striking ''a member'' and inserting ''an enlisted member'';

(3) by striking ''1998—'' and all that follows through ''is reduced in'' and inserting ''1998, is reduced in'';

(4) by striking ''; or'' and inserting a period; and

(5) by striking subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the determination of the retired grade of members of the Armed Forces retiring on or after the date of the enactment of this Act.

SEC. 505. REPEAL OF REQUIREMENT THAT NO MORE THAN 50 PERCENT OF ACTIVE DUTY GENERAL AND FLAG OFFICERS BE IN GRADES ABOVE BRIGADIER GENERAL AND REAR ADMIRAL (LOWER HALF).

(a) REPEAL OF DISTRIBUTION REQUIREMENT.—Subsection (a) of section 525 of title 10, United States Code, is repealed.

(b) REORGANIZATION OF SECTION.—Such section is further amended—

(1) by striking ''(b)(1) No appointment'' and inserting ''(a) LIMITATION ON NUMBER OF GENERAL AND FLAG OFFICERS IN SENIOR GRADES.—(1) No appointment''; and

(2) by striking ''(3) An officer'' and inserting ''(b) SPECIAL RULES AND EXCEPTIONS.—(1) An officer''; and

(3) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (2), (3), (4), (5), and (6), respectively.

(c) CONFORMING AMENDMENTS.—(1) Subsection (b) of such section (as designated by subsection (a)(2)) is amended as follows:

(A) Paragraph (1) (as redesignated by subsection (a)(2)), paragraph (2)(A) (as redesignated by subsection (a)(3)), and paragraph (6) (as redesignated by subsection (a)(3)) are amended by striking ''paragraph (1) or (2)'' and inserting ''subsection (a)''.

(B) Paragraph (3)(A) (as so redesignated) is amended by striking ''under the first sentence of paragraph (1) or (2), as applicable'' and inserting ''under subsection (a)''.

(C) Paragraph (4) (as so redesignated) and the first and third sentences of paragraph (5) (as so redesignated) are amended by striking ''paragraph (1)'' and inserting ''subsection (a)(1)''.

(D) The second sentence of paragraph (5) (as so redesignated) is amended by striking ''paragraph (1) or (2)'' and inserting ''subsection (a)(2)''.

(2) Subsection (c) of such section is amended—

(A) by striking ''(c)(1)'' and inserting '(c) 'REALLOCATION AUTHORITY.—(1)'';

(B) in paragraph (1)(A), by striking ''subsection (b)(1)'' and inserting ''subsection (a)(1)'';

(C) in paragraph (1)(B), by striking ''subsection (b)(2)'' and inserting ''subsection (a)(2)''; and

(D) in paragraph (3)(A), by striking ''subsection (b)'' and inserting ''subsections (a) and (b)''.

(3) Subsection (d) of such section is amended by inserting ''SPECIAL RULE FOR OFFICERS FORMERLY ON JOINT CHIEFS OF STAFF.—'' after ''(d)''.

(d) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 525. Distribution in grade: general and flag officers on active duty''.

(2) The item relating to such section in the table of sections at the beginning of chapter 32 of such title is amended to read as follows:

''525. Distribution in grade: general and flag officers on active duty.''.

SEC. 506. REVISION TO TERMS FOR ASSISTANTS TO THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF FOR NATIONAL GUARD AND RESERVE MATTERS.

(a) CODIFICATION AND REVISION.—Chapter 5 of title 10, United States Code, is amended by adding at the end a new section 156 consisting of—

(1) the following section heading:

''§ 156. Assistants to the Chairman for National Guard matters and for Reserve matters'';

and

(2) a text consisting of the text of subsections (a) through (f)(1) of section 901 of the National Defense Authorization Act for Fiscal Year 1998 (10 U.S.C. 155 note), revised—

(A) in subsection (c), by deleting ''two years'' and inserting ''four years''; and

(B) in subsection (f), by deleting ''(1)''.

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

''156. Assistants to the Chairman for National Guard members and for Reserve matters.''.

(c) CONFORMING REPEAL.—Section 901 of the National Defense Authorization Act for Fiscal Year 1998 (10 U.S.C. 155 note) is repealed.

SEC. 507. SUCCESSION FOR POSITION OF CHIEF, NATIONAL GUARD BUREAU.

(a) DESIGNATION OF SENIOR OFFICER IN NATIONAL GUARD BUREAU.—Section 10502 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(e) SUCCESSION.—(1) Unless otherwise directed by the President or Secretary of Defense, when there is a vacancy in the office of the Chief of the National Guard Bureau or in the event the Chief of the National Guard Bureau is unable to perform the duties of that office, the senior of the officers specified in paragraph (2) shall serve as the acting Chief until a successor is appointed or the Chief once again is able to perform the duties of that office.

''(2) The officers specified in this paragraph are the following:

''(A) The senior officer of the Army National Guard of the United States on duty with the National Guard Bureau.

''(B) The senior officer of the Air National Guard of the United States on duty with the National Guard Bureau.''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade; succession''.

(2) The item relating to such section in the table of sections at the beginning of chapter 1011 of such title is amended to read as follows:

''10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade; succession.''.

(c) REPEALER.—Subsections (d) and (e) of section 10505 of such title are repealed.

SEC. 508. TITLE OF VICE CHIEF OF THE NATIONAL GUARD BUREAU CHANGED TO DIRECTOR OF THE JOINT STAFF OF THE NATIONAL GUARD BUREAU.

(a) IN GENERAL.—Section 10505 of title 10, United States Code, as amended by section 507(c), is amended by striking ''Vice Chief of the National Guard Bureau'' each place it appears in subsections (a), (b), and (c) and inserting ''Director of the Joint Staff of the National Guard Bureau''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 10505. Director of the Joint Staff of the National Guard Bureau''.

(2) The item relating to such section in the table of sections at the beginning of chapter 1011 of such title is amended to read as follows:

''10505. Director of the Joint Staff of the National Guard Bureau.''.

SEC. 509. TWO-YEAR EXTENSION OF AUTHORITY TO WAIVE REQUIREMENT THAT RESERVE CHIEFS AND NATIONAL GUARD DIRECTORS HAVE SIGNIFICANT JOINT DUTY EXPERIENCE.

(a) EXTENSION.—Sections 3038(b)(4), 5143(b)(4), 5144(b)(4), 8038(b)(4), and 10506(a)(3)(D) of title 10, United States Code, are amended by striking ''December 31, 2004,'' and inserting ''December 31, 2006,''.

(b) FUTURE COMPLIANCE.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a plan for ensuring that all officers selected after December 31, 2006, for recommendation for appointment as a Reserve chief or National Guard director have significant joint duty experience, as required by law, and may be so recommended without requirement for a wavier of such requirement. Such plan shall be developed in coordination with the Chairman of the Joint Chiefs of Staff.

SEC. 510. REPEAL OF DISTRIBUTION REQUIREMENTS FOR NAVAL RESERVE FLAG OFFICERS.

Subsection (c) of 12004 of title 10, United States Code, is amended—

(1) by striking ''(1)'' after ''(c)''; and

(2) by striking the second sentence and all that follows through the end of the subsection.

Subtitle B—Other Officer Personnel Policy Matters

SEC. 511. TRANSITION OF ACTIVE-DUTY LIST OFFICER FORCE TO ALL REGULAR STATUS.

(a) REPEAL OF REQUIREMENT THAT ACTIVE-DUTY OFFICERS SERVE IN A RESERVE COMPONENT FOR AT LEAST ONE YEAR BEFORE RECEIVING A REGULAR COMMISSION.—Section 532 of title 10, United States Code, is amended by striking subsection (e).

(b) REVISION TO QUALIFICATIONS FOR ORIGINAL APPOINTMENT AS A COMMISSIONED OFFICER.—(1) Section 532 of such title is further amended by adding at the end the following new subsection:

''(f) The Secretary of Defense may waive the requirement of paragraph (1) of subsection (a) with respect to a person who has been lawfully admitted to the United States for permanent residence when the Secretary determines that the national security so requires, but only for an original appointment in a grade below the grade of major or lieutenant commander.''.

(2) Section 619(d) of such title is amended by adding at the end the following new paragraph:

''(5) An officer of the Army, Air Force, or Marine Corps in the grade of captain, or of the Navy in the grade of lieutenant, who is not a citizen of the United States.''.

(c) REPEAL OF LIMITATIONS ON TOTAL STRENGTH OF REGULAR COMMISSIONED OFFICERS ON ACTIVE-DUTY.—Section 522 of such title is repealed. The table of sections at the beginning of chapter 31 of such title is amended by striking the item relating to that section.

(d) AUTHORITY FOR ORIGINAL APPOINTMENT OF REGULAR OFFICERS IN JUNIOR GRADES TO BE MADE BY PRESIDENT ALONE.—Section 531(a) of such title is amended to read as follows:

''(a)(1) Original appointments in the grades of second lieutenant, first lieutenant, and captain in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy shall be made by the President alone.

''(2) Original appointments in the grades of major, lieutenant colonel, and colonel in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of lieutenant commander, commander, and captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.''.

(e) TERMINATION OF REQUIREMENT OF 6 YEARS SERVICE IN A RESERVE COMPONENT FOR NONREGULAR SERVICE RETIREMENT ELIGIBILITY.—(1) Section 12731(a)(3) of such title is amended by inserting after ''(3)'' the following: ''in the case of a person who completed the service requirements of paragraph (2) before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005,''.

(f) ALL REGULAR OFFICER APPOINTMENTS FOR STUDENTS ATTENDING UNIVERSITY OF HEALTH SCIENCES.—Section 2114(b) of such title is amended by striking the first two sentences and inserting the following: ''They shall be appointed in a regular component of the uniformed services and shall serve on active duty as a second lieutenant or ensign (or the equivalent).''.

SEC. 512. MANDATORY RETENTION ON ACTIVE DUTY TO QUALIFY FOR RETIREMENT PAY.

Section 12686(a) of title 10, United States Code, is amended by inserting ''(other than the retirement system under chapter 1223 of this title)'' after ''retirement system''.

SEC. 513. DISTRIBUTION IN GRADE OF MARINE CORPS RESERVE OFFICERS IN AN ACTIVE STATUS IN GRADES BELOW BRIGADIER GENERAL

The table in section 12005(c)(1) of title 10, United States Code, is amended to read as follows:

''Colonel	*2 percent*
Lieutenant colonel	*8 percent*
Major	*16 percent*
Captain	*39 percent*
First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	*35 percent.''.*

SEC. 514. TUITION ASSISTANCE FOR OFFICERS.

(a) AUTHORITY TO REDUCE OR WAIVE ACTIVE DUTY SERVICE OBLIGATION.—Subsection (b) of section 2007 of title 10, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)'';

(2) by inserting ''or full-time National Guard duty'' after ''active duty'' each place it appears; and

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

''(2) Notwithstanding paragraph (1), the Secretary of the military department may reduce or waive the active duty service obligation—

''(A) in the case of a commissioned officer who is subject to mandatory separation;

''(B) in the case of a commissioned officer who has completed the period of active duty service in support of a contingency operation; or

''(C) in other exigent circumstances as determined by the Secretary.'.

(b). INCREASE IN TUITION ASSISTANCE AUTHORIZED FOR ARMY OFFICERS IN THE SELECTED RESERVE.—Paragraph (1) of section 2007(c) of title 10, United States Code, is amended to read as follows:

''(1) Subject to paragraphs (2) and (3), the Secretary of the Army may pay the charges of an educational institution for the tuition or expenses of an officer in the Selected Reserve of the Army National Guard or the Army Reserve for education or training of such officer.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) may, at the discretion of the Secretary concerned, be applied to a service obligation incurred by an officer serving on active duty as of the date of the enactment of this Act.

Subtitle C—Reserve Component Matters

SEC. 521. REVISION TO STATUTORY PURPOSE OF THE RESERVE COMPONENTS.

Subsection 10102 of title 10, United States Code, is amended by striking '', during'' and all that follows through ''planned mobilization,''.

SEC. 522. IMPROVED ACCESS TO RESERVE COMPONENT MEMBERS FOR ENHANCED TRAINING.

(a) RESERVE COMPONENTS GENERALLY.— Section 12301 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ''(other than for training)'';

(2) in subsection (c)—

(A) in the first sentence, by striking ''(other than for training)'' and inserting ''as provided in subsection (a)''; and

(B) in the second sentence, by striking ''ordered to active duty (other than for training)'' and inserting ''so ordered to active duty''; and

(3) in subsection (e), by striking ''(other than for training)'' and inserting ''as provided in subsection (a)''.

(b) READY RESERVE.—Section 12302 of such title is amended by striking ''(other than for training)'' in subsections (a) and (c).

(c) ORDER TO ACTIVE DUTY OTHER THAN DURING WAR OR NATIONAL EMERGENCY.—Section 12304(a) of such title is amended by striking ''(other than for training)''.

(d) STANDBY RESERVE.—Section 12306 of such title is amended—

(1) in subsection (a), by striking ''(other than for training) only''; and

(2) in subsection (b), by striking ''(other than for training)'' in paragraphs (1) and (2) and inserting ''as provided in section 12301(a) of this title''.

(d) STANDBY RESERVE.—Section 12306 of such title is amended by striking ''(other than for training)'' each place it appears and inserting ''as provided in section 12301(a)''.

SEC. 523. STATUS UNDER DISABILITY RETIREMENT SYSTEM FOR RESERVE MEMBERS RELEASED FROM ACTIVE DUTY DUE TO INABILITY TO PERFORM WITHIN 30 DAYS OF CALL TO ACTIVE DUTY.

(a) IN GENERAL.—Chapter 61 of title 10, United States Code, is amended by inserting after section 1206 the following new section:

''§ 1206a. Reserve component members unable to perform duties when ordered to active duty: disability system processing

''(a) MEMBERS RELEASED FROM ACTIVE DUTY WITHIN 30 DAYS.—A member of a reserve component who is ordered to active duty for a period of more than 30 days and is released from active duty within 30 days of commencing such period of active duty for a reason stated in subsection (b) shall be considered for all purposes under this chapter to have been serving under an order to active duty for a period of 30 days or less.

''(b) APPLICABLE REASONS FOR RELEASE.—Subsection (a) applies in the case of a member released from active duty because of a failure to meet—

''(1) physical standards for retention; or

''(2) medical or dental standards for deployment due to a preexisting condition not aggravated during the period of active duty.

''(c) SAVINGS PROVISION FOR MEDICAL CARE PROVIDED WHILE ON ACTIVE DUTY.—Notwithstanding subsection (a), any benefit under chapter 55 of this title received by a member described in subsection (a) or a dependent of such member before or during the period of active duty shall not be subject to recoupment or otherwise affected.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1206 the following new item:

''1206a. Reserve component members unable to perform duties when ordered to active duty: disability system processing.''.

SEC. 524. FEDERAL CIVIL SERVICE MILITARY LEAVE FOR RESERVE AND NATIONAL GUARD CIVILIAN TECHNICIANS.

Section 6323(d)(1) of title 5, United States Code is amended by striking ''(other than active duty during a war or national emergency declared by the President or Congress)''.

SEC. 525. EXPANDED EDUCATIONAL ASSISTANCE AUTHORITY FOR OFFICERS COMMISSIONED THROUGH ROTC PROGRAM AT MILITARY JUNIOR COLLEGES.

(a) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE ON ACTIVE DUTY.—Section 2107(c) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

''(5)(A) The Secretary of the Army may provide an individual who received a commission as a Reserve officer in the Army from a military junior college through a program under this chapter and who does not have a baccalaureate degree with financial assistance for pursuit of a baccalaureate degree.

''(B) Such assistance is in addition to any financial assistance provided under paragraph (1), (3), or (4).

''(C) The agreement and reimbursement requirements established in section 2005 of this title are applicable to financial assistance under this paragraph.

''(D) An officer receiving financial assistance under this paragraph shall be attached to the unit of the Army at the educational institution at which the officer is pursuing a baccalaureate degree and shall be considered to be a member of the Senior Reserve Officers' Training Corps on inactive duty for training, as defined in section 101(23) of title 38.

''(E) A qualified officer who did not previously receive financial assistance under this section is eligible to receive educational assistance under this paragraph.

''(F) A Reserve officer may not be called or ordered to active duty for a deployment while participating in the program under this paragraph.

''(G) Any service obligation incurred by an officer under an agreement entered into under this paragraph shall be in addition to any service obligation incurred by that officer under any other provision of law or agreement.

''(H) The amount obligated during any fiscal year under this paragraph and paragraph (4) of section 2107a(c) of this title may not exceed a total of $1,500,000.''.

(b) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE IN TROOP PROGRAM UNITS.—Section 2107a(c) of such title is amended by adding at the end the following new paragraphs:

''(4)(A) The Secretary of the Army may provide an individual who received a commission as a Reserve officer in the Army from a military junior college through a program under this chapter and who does not have a baccalaureate degree with financial assistance for pursuit of a baccalaureate degree.

''(B) Such assistance is in addition to any provided under paragraph (1) or (2).

''(C) The agreement and reimbursement requirements established in section 2005 of this title are applicable to financial assistance under this paragraph.

''(D) An officer receiving financial assistance under this paragraph shall be attached to the unit of the Army at the educational institution at which the officer is pursuing a baccalaureate degree and shall be considered to be a member of the Senior Reserve Officers' Training Corps on inactive duty for training, as defined in section 101(23) of title 38.

''(E) A qualified officer who did not previously receive financial assistance under this section is eligible to receive educational assistance under this paragraph.

''(F) A Reserve officer may not be called or ordered to active duty for a deployment while participating in the program under this paragraph.

''(G) Any service obligation incurred by an officer under an agreement entered into under this paragraph shall be in addition to any service obligation incurred by that officer under any other provision of law or agreement.

''(H) As provided in subparagraph (H) of section 2107(c)(5) of this title, the amount obligated during any fiscal year under this paragraph and paragraph (5) of section 2107(c) of this title may not exceed a total of $1,500,000.''.

(c) REPEAL OF SUNSET PROVISION FOR FINANCIAL ASSISTANCE PROGRAM FOR STUDENTS NOT ELIGIBLE FOR ADVANCED TRAINING.—Section 2103a of such title is amended by striking subsection (d).

(d) ANNUAL IMPLEMENTATION REPORT.—The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report, for each of the next six years after the enactment of this Act, providing information on the experience of the Department of Defense during the preceding year under paragraph (5) of section 2107(c) of title 10, United States Code, as added by subsection (a), and under paragraph (4) of section 2107a(c) of title 10, United States Code, as added by subsection (b). The report for with respect to any year shall be submitted not later March 31 of the following year.

SEC. 526. EFFECT OF APPOINTMENT OR COMMISSION AS OFFICER ON ELIGIBILITY FOR SELECTED RESERVE EDUCATION LOAN REPAYMENT PROGRAM FOR ENLISTED MEMBERS.

(a) CONTINUATION OF LOAN REPAYMENT.—Section 16301(a) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking ''The Secretary'' in the first sentence and inserting ''Except as provided in paragraph (3), the Secretary of Defense''; and

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

''(3) In the case of a commitment made by the Secretary of Defense after the date of the enactment of this paragraph to repay a loan under paragraph (1) conditioned upon the performance by the borrower of service as an enlisted member under paragraph (2), the Secretary shall repay the loan for service performed by the borrower as an officer (rather than as an enlisted member) in the case of a borrower who, after such commitment is entered into and while performing service as an enlisted member, accepts an appointment or commission as a warrant officer or commissioned officer of the Selected Reserve.''.

(b) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 16301 of title 10, United States Code, as amended by subsection (a), to make loan repayments on behalf of members of the reserve components who accept an appointment or commission as a warrant officer or commissioned officer of the Selected Reserve may not exceed $1,000,000.

SEC. 527. NUMBER OF STARBASE ACADEMIES IN A STATE.

Paragraph (3) of section 2193b(c) of title 10, United States Code, is amended to read as follows:

''(3)(A) Subject to subparagraph (B), the Secretary may not support the establishment in any State of more than two academies.

''(B) The Secretary may waive the limitation in subparagraph (A). Any such waiver shall be made under criteria to be prescribed by the Secretary.''.

SEC. 528. COMPTROLLER GENERAL ASSESSMENT OF INTEGRATION OF ACTIVE AND RESERVE COMPONENTS OF THE NAVY.

(a) ASSESSMENT.—The Comptroller General shall review the plan of the Secretary of the Navy for, and implementation by the Secretary of, initiatives undertaken within the Navy to improve the integration of the active and reserve components of the Navy in peacetime and wartime operations resulting from—

(1) the Naval Reserve Redesign Study carried out by the Navy: and

(2) the zero-based review of reserve component force structure undertaken by the commander of the Fleet Forces Command of the Navy during fiscal year 2004.

(b) REPORT.—No later than March 31, 2005, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the review under subsection (a). The Comptroller General shall include in the report recommendations for improved active and reserve component integration in the Navy.

(c) LIMITATION.—No funds appropriated or otherwise made available by this Act may be obligated or expended to decommission a Naval Reserve or Marine Corps Reserve aviation squadron until 90 days after the date on which the report required by subsection (b) is submitted to the Committees on Armed Services of the Senate and House of Representatives.

(d) MATTERS TO BE EXAMINED.—In conducting the review, the Comptroller General shall examine the following:

(1) The criteria the Navy used to determine the following with respect to integration of the active and reserve components of the Navy:

(A) The future mix of active and reserve component force structure.

(B) Organization of command and control elements.

(C) Manpower levels.

(D) Basing changes.

(2) The extent to which the plans of the Navy for improving the integration of the active and reserve components of the Navy considered each of the following:

(A) The new Fleet Response Plan of the Navy.

(B) The flexible deployment concept.

(C) Global operations.

(D) Emerging mission requirements.

(E) Other evolving initiatives.

(3) The manner in which the timing of the execution of planned active and reserve integration initiatives will correlate with the funding of those initiatives, including consideration of an evaluation of the adequacy of the funding allocated to those integration initiatives.

(4) For naval aviation forces, the extent to which the active and reserve component integration plans of the Navy will affect factors such as—

(A) common training and readiness standards for active and reserve forces;

(B) reserve component access to the same equipment as the active component;

(C) relationships between command and headquarters elements of active and reserve forces; and

(D) trends in the use by the Navy of units referred to as ''associate'' units or ''blended'' units.

(E) Basing of future aviation forces.

(F) Employment of Naval Reserve aviation forces and personnel in peacetime and wartime operations.

SEC. 529. OPERATIONAL ACTIVITIES CONDUCTED BY THE NATIONAL GUARD UNDER AUTHORITY OF TITLE 32.

(a) IN GENERAL.—Title 32, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 9—OPERATIONS OF A NATIONAL OR FEDERAL INTEREST

''Sec.
''901. Operational activities.
''902. Operational duty.
''903. Funding assistance.
''904. Operations requests.

''§ 901. Operational activities

''The Secretary of Defense may provide funds in advance or on a reimbursable basis to a Governor to employ National Guard units and individuals to conduct operational activities that the Secretary determines to be in the national interest. The Secretary of Defense shall prescribe regulations to implement this chapter.

''§ 902. Operational duty

''All duty performed under this chapter shall be considered to be full-time National Guard duty under section 502(f) of this title. Members of the National Guard performing full-time National Guard duty in the Active Guard and Reserve Program may support or execute operational activities performed by the National Guard under this chapter.

''§ 903. Funding assistance

''When the Secretary of Defense determines that certain operational activities of the National Guard are in the national interest under section 901 of this title, the Secretary shall provide funds to a State in an amount that the Secretary determines is appropriate for the following costs of the operational activities from funds available to the Department for related purposes:

''(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of that State.

''(2) The operation and maintenance of the equipment and facilities of the National Guard of that State.

''(3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State.

''§ 904. Operations requests

''(a) REQUESTS.—A Governor of a State may request funding assistance for the operational activities of the National Guard of that State from the Secretary of Defense. Any such request shall include the following:

''(1) The specific intended operational activities of the National Guard of that State.

''(2) An explanation of why the operational activities are in the national interest.

''(3) A certification that operational activities are to be conducted at a time when the personnel involved are not in Federal service.

''(4) A certification that participation by National Guard personnel in the operational activities is service in addition to training required under section 502 of this title.''.

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

''9. Operations of a National or Federal Interest ..... 901''.

(c) CONFORMING AMENDMENT.—Section 115(h) of title 10, United States Code, is amended by adding at the end the following new subsection:

''(i) CERTAIN FULL-TIME NATIONAL GUARD DUTY PERSONNEL EXCLUDED FROM COUNTING FOR FULL-TIME NATIONAL GUARD DUTY END STRENGTHS.—In counting full-time National Guard duty personnel for the purpose of end-strengths authorized pursuant to subsection (a)(1), persons involuntarily performing operational activities under chapter 9 of title 32 shall be excluded.''.

SEC. 530. ARMY PROGRAM FOR ASSIGNMENT OF ACTIVE COMPONENT ADVISERS TO UNITS OF THE SELECTED RESERVE.

(a) CHANGE IN MINIMUM NUMBER REQUIRED TO BE ASSIGNED.—Section 414(c)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 12001 note) is amended by striking ''5,000'' and inserting ''3,500''.

(b) LIMITATION ON REDUCTIONS.—Notwithstanding the amendment made by subsection (a), the Secretary of the Army may not reduce the number of active component Reserve support personnel below the number of such personnel as of the date of the enactment of this Act until the report required by subsection (c) has been submitted.

(c) REPORT.—Not later than March 31, 2005, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the support by active components of the Army for training and readiness of the Army National Guard and Army Reserve. The report shall include an evaluation and determination of each of the following:

(1) The effect on the ability of the Army to improve such training and readiness resulting from the reduction under the amendment made by subsection (a) in the minimum number of active component Reserve support personnel.

(2) The adequacy of having 3,500 members of the Army (the minimum number required under the law as so amended) assigned as active component Reserve support personnel in order to meet emerging training requirements in the Army reserve components in connection with unit and force structure conversions and preparations for wartime deployment

(3) The nature and effectiveness of efforts by the Army to reallocate the 3,500 personnel assigned as active component Reserve support personnel to higher priority requirements and to expand the use of reservists on active duty to meet reserve component training needs.

(4) Whether the Army is planning further reductions in the number of active component Reserve support personnel and, if so, the scope and rationale for those reductions.

(5) Whether an increase in Army reserve component full-time support personnel will be required to replace the loss of active component Reserve support personnel.

(d) DEFINITION.—In this section, the term ''active component Reserve support personnel'' means the active component Army personnel assigned as advisers to units of the Selected Reserve of the Ready Reserve of the Army pursuant to section 414 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 12001 note).

Subtitle D—Joint Officer Management

SEC. 531. STRATEGIC PLAN TO LINK JOINT OFFICER DEVELOPMENT TO OVERALL MISSIONS AND GOALS OF DEPARTMENT OF DEFENSE.

(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a strategic plan for joint officer management and joint professional military education that links joint officer development to the accomplishment of the overall missions and goals of the Department of Defense, as set forth in the most recent national military strategy under section 153(d) of title 10, United States Code. Such plan shall be developed for the purpose of ensuring that sufficient numbers of qualified officers are available as necessary to meet the needs of the Department for qualified officers who are operationally effective in the joint environment.

(2) The Secretary shall develop the strategic plan with the advice of the Chairman of the Joint Chiefs of Staff.

(b) MATTERS TO BE INCLUDED.—As part of the strategic plan under subsection (a), the Secretary shall include the following:

(1) A statement of the levels of joint officer resources needed to be available to properly support the overall missions of the Department of Defense, with such resources to be specified by the number of officers with the joint specialty, the number of officers required for service in joint duty assignment positions, and the training and education resources required.

(2) An assessment of the available and projected joint officer development resources (including officers, educational and training resources, and availability of joint duty assignment positions and tours of duty) necessary to achieve the levels specified under paragraph (1).

(3) Identification of any problems or issues arising from linking resources for joint officer development to accomplishment of the objective of meeting the levels specified under paragraph (1) to resolve those problems and issues and plans.

(4) A description of the process for identification of the requirement for joint specialty officers.

(5) A description of the career development and management of joint specialty officers and of any changes to be made to facilitate achievement of the levels of resources specified in paragraph (1), including additional education requirements, promotion opportunities, and assignments to fill joint assignments.

(c) INCLUSION OF RESERVE COMPONENT OFFICERS.—In developing the strategic plan required by subsection (a), the Secretary shall include joint officer development for officers on the reserve active-status list in the plan.

(d) REPORT.—The Secretary shall submit the plan developed under this section to the Committees on Armed Services of the Senate and House of Representatives not later than January 15, 2006.

(e) ADDITIONAL ASSESSMENT.—Not later than January 15, 2007, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, as a follow-on to the report under subsection (d), a report providing an assessment of, and initiatives to improve, the performance in joint matters of the following:

(1) Senior civilian officers and employees in the Office of the Secretary of Defense, the Defense Agencies, and the military departments.

(2) Senior noncommissioned officers.

(3) Senior leadership in the reserve components.

SEC. 532. JOINT REQUIREMENTS FOR PROMOTION TO FLAG OR GENERAL OFFICER GRADE.

(a) EFFECTIVE DATE FOR JOINT SPECIALTY OFFICER REQUIREMENT.—Subsection (a)(2) of section 619a of title 10, United States Code, is amended by striking ''September 30, 2007'' and inserting ''September 30, 2008''.

(b) EXCEPTION TO JOINT DUTY REQUIREMENT FOR OFFICERS SERVING IN JOINT DUTY ASSIGNMENT WHEN CONSIDERED FOR PROMOTION.—Subsection (b)(4) of such section is amended by striking ''if—'' and all that follows through ''(B) the officer's'' and inserting ''if the officer's''.

SEC. 533. CLARIFICATION OF TOURS OF DUTY QUALIFYING AS A JOINT DUTY ASSIGNMENT.

(a) CONSECUTIVE TOURS OF DUTY IN JOINT DUTY ASSIGNMENTS.—Section 668(c) of title 10, United States Code, is amended by striking ''within the same organization''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply in the case of a joint duty assignment completed by an officer before the date of the enactment of this Act, except in the case of an officer has continued in joint duty assignments, without a break in service in such assignments, between the end of such assignment and the date of the enactment of this Act.

SEC. 534. AUTHORITY FOR RESERVE OFFICERS TO QUALIFY AS JOINT SPECIAL OFFICERS.

(a) AUTHORITY.—Subsection (a) of section 661 of title 10, United States Code, is amended by striking ''on the active-duty list''.

(b) NOMINATIONS FOR SELECTION.—Subsection (b) of such section is amended in the second sentence—

(1) by striking ''and'' after ''military department,''; and

(2) by inserting after ''such date,'' the following: '', and each reserve component officer in an active status who is not on the active-duty list,''.

(c) CONFORMING AMENDMENTS.—(1) Section 662 of such title is amended—

(A) in subsection (a), by inserting ''on the active-duty list'' after ''qualifications of officers'' in the matter preceding paragraph (1); and

(B) in subsection (b), by inserting ''on the active-duty list'' after ''preceding fiscal year of officers'' in the first sentence.

(2)(A) The heading of such section is amended to read as follows:

''§ 662. Promotion policy objectives for joint officers on the active-duty list''.

(B) The item relating to such section in the table of sections at the beginning of chapter 38 of such title is amended to read as follows:

''662. Promotion policy objectives for joint officers on the active-duty list.''.

(d) ANNUAL REPORT TO CONGRESS.—(1) Section 667 of such title is amended—

(A) by redesignating paragraph (18) as paragraph (19); and

(B) by inserting after paragraph (17) the following new paragraph (18):

''(18) The implementation of authority under section 661 of this title to certify reserve component officers as joint specialty officers, together with the number of reserve component officers who were so certified during the reporting period.''.

(2) The Secretary of Defense shall include in the annual report of the Secretary to Congress for fiscal year 2005, as part of the material included in that report pursuant to paragraph (18) of section 667 of title 10, United States Code, a summary of the joint officer management policies adopted for reserve component officers pursuant to the amendments made by subsections (a) and (b).

Subtitle E—Professional Military Education

SEC. 541. IMPROVEMENT TO PROFESSIONAL MILITARY EDUCATION IN THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Part III of subtitle A of title 10, United States Code, is amended—

(1) by redesignating chapter 107 as chapter 106A; and

(2) by inserting before chapter 108 the following new chapter:

''CHAPTER 107—PROFESSIONAL MILITARY EDUCATION

''Sec.
''2151. Definitions
''2152. Professional military education: general requirements.
''2153. Capstone course: newly selected general and flag officers.
''2154. Joint professional military education: three-phase approach.
''2155. Intermediate level service colleges: written examination for selection for attendance.
''2156. Joint professional military education phase II program of instruction.
''2157. Intermediate and senior level service colleges; Joint Forces Staff College: duration of principle course of instruction.
''2158. Annual report to Congress.

''§ 2151. Definitions

(a) JOINT PROFESSIONAL MILITARY EDUCATION.—Joint professional military education consists of the rigorous and thorough instruction and examination of officers of the armed forces in an environment designed to promote a theoretical and practical in-depth understanding of joint matters and, specifically, of the subject matter covered. The subject matter to be covered by joint professional military education shall include at least the following:

''(1) Integrated employment of land, sea, and air forces.

''(2) National military strategy.

''(3) Strategic planning.

''(4) Contingency planning.

''(5) Command and control of combat operations under unified command.

''(6) Joint and combined operations.

''(7) Joint doctrine.

''(8) Joint logistics.

''(9) Joint communications.

''(10) Joint intelligence.

''(11) Campaign planning.

''(12) Joint military command and control systems and the interface of those systems with national command systems.

''(13) Joint force development, including mobilization.

''(14) Joint requirements development.

''(15) Military history.

''(16) Awareness of cultures in areas outside of the United States where United States forces may operate or of forces of foreign countries with whom United States forces may operate.

''(b) OTHER DEFINITIONS.—In this chapter:

''(1) The term 'senior level service school' means any of the following:

''(A) The Army War College.

''(B) The College of Naval Warfare.

''(C) The Air War College.

''(D) The Marine Corps University.

''(2) The term 'intermediate level service school' means any of the following:

''(A) The United States Army Command and General Staff College.

''(B) The College of Naval Command and Staff.

''(C) The Air Command and Staff College.

''(D) The Marine Corps Command and Staff College.

''§ 2152. Joint professional military education: general requirements

''(a) IN GENERAL.—The Secretary of Defense shall implement a coherent and comprehensive framework for the joint professional military education of officers, including officers nominated under section 661 of this title for the joint specialty.

''§ 2153. Capstone course: newly selected general and flag officers

''(a) REQUIREMENT.—Each officer selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) shall be required, after such selection, to attend a military education course designed specifically to prepare new general and flag officers to work with the other armed forces.

''(b) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Secretary of Defense may waive subsection (a)—

''(A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters;

''(B) when necessary for the good of the service;

''(C) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist (as determined under regulations prescribed under section 619(e)(4) of this title); and

''(D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain.

''(2) The authority of the Secretary of Defense to grant a waiver under paragraph (1) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

''§ 2154. Joint professional military education: three-phase approach

''(a) THREE-PHASE APPROACH.—The Secretary of Defense shall implement a three-phase approach to joint professional military education, as follows:

''(1) There shall be a course of instruction, designated and certified by the Secretary of Defense as Phase I instruction, consisting all the elements of a joint professional military education (as specified in section 2151(a) of this

title), in addition to the principal curriculum taught to all officers at an intermediate level service school.

''(2) There shall be a course of instruction, designated and certified by the Secretary of Defense as Phase II instruction, consisting of a joint professional military education curriculum taught in residence at—

''(A) the Joint Forces Staff College; or

''(B) a senior level service school that has been designated and certified by the Secretary of Defense as a joint professional military education institution.

''(3) There shall be a course of instruction, designated and certified by the Secretary of Defense as the Capstone course, for officers selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) and offered in accordance with section 2153 of this title.

''(b) SEQUENCED APPROACH.—The Secretary shall require the sequencing of joint professional military education so that the standard sequence of assignments for such education requires an officer to complete Phase I instruction before proceeding to Phase II instruction, as provided in section 2156(a) of this title.

''§ 2155. Intermediate level service school: written examination for selection for attendance

''(a) REQUIREMENT.—The Secretary of each military department shall require that performance on a comprehensive written examination shall constitute not less than 20 percent of the evaluation criteria for selection of any officer for full-time attendance at an intermediate level service school under the jurisdiction of the Secretary. Such an examination shall be designed so as to require substantive knowledge of military history, national military strategy, service and joint doctrine, and such other subjects as the Secretary may require. Such an examination shall be required for each class entering an intermediate level service school after September 30, 2007.

''(b) SELECTION FROM DIFFERENT SERVICE.—The Secretary of a military department, in considering candidates for full-time attendance at an intermediate level service school under the jurisdiction of the Secretary who are officers of an armed force other than the armed force that administers that service school, shall consider such an officer to be qualified for selection for such attendance if the officer has met all the requirements for attendance at the equivalent intermediate level service school of that officer's own armed force.

''§ 2156. Joint professional military education phase II program of instruction

''(a) PREREQUISITE OF COMPLETION OF JOINT PROFESSIONAL MILITARY EDUCATION I PROGRAM OF INSTRUCTION.—(1) After September 30, 2009, an officer of the armed forces may not be accepted for, or assigned to, a program of instruction designated by the Secretary of Defense as joint professional military education Phase II unless the officer has successfully completed a program of instruction designated by the Secretary of Defense as joint professional military education Phase I.

''(2) The Chairman of the Joint Chiefs of Staff may grant exceptions to the requirement under paragraph (1). Such an exception may be granted only on a case-by-case basis for compelling cause, as determined by the Chairman. An officer selected to receive such an exception shall be required to demonstrate a knowledge of joint matters and other aspects of the Phase I curriculum that, to the satisfaction of the Chairman, qualifies the officer to meet the minimum requirements established for entry into Phase II instruction without first completing Phase I instruction. The number of officers selected to attend an offering of the principal course of instruction at the Joint Forces Staff College or a senior level service school designated by the Secretary of Defense as a joint professional military education institution who have not completed Phase I instruction should comprise no more than 10 percent of the total number of officers selected.

''(b) PHASE II REQUIREMENTS.—The Secretary shall require that the curriculum for Phase II joint professional military education at any school—

''(1) focus on developing joint attitudes and perspectives and honing joint warfighting skills; and

''(2) be structured —

''(A) so as to adequately prepare students to perform effectively in an assignment to a joint, multiservice organization; and

''(B) so that students progress from a basic knowledge of joint matters learned in Phase I instruction to the level of expertise necessary for successful performance in the joint arena.

''(c) CURRICULUM CONTENT.—In addition to the subjects specified in section 2151(a) of this title, the curriculum for Phase II joint professional military education shall include the following:

''(1) National security strategy.

''(2) Theater strategy and campaigning.

''(3) Joint planning processes and systems.

''(4) Joint, interagency, and multinational capabilities and the integration of those capabilities.

''(d) STUDENT RATIO; FACULTY RATIO.—(1) For courses of instruction in a Phase II program of instruction that is offered at senior level service school that has been designated by the Secretary of Defense as a joint professional military education institution—

''(1) the percentage of students enrolled in any such course who are officers of the armed force that administers the school may not exceed 60 percent, with the remaining services proportionally represented; and

''(2) of the faculty at the school who are active-duty officers who provide instruction in such courses, the percentage who are officers of the armed force that administers the school may not exceed 60 percent, with the remaining services proportionally represented.

''§ 2157. Intermediate and senior level service schools; Joint Forces Staff College: duration of principle course of instruction

''(a) SERVICE SCHOOLS.—The duration of the principal course of instruction offered at each intermediate level service school and each senior level service school may not be less than 10 months of resident instruction. The Secretary of Defense may waive the requirement in the preceding sentence during a period of war or during a national emergency declared by the President or the Congress.

''(b) JOINT FORCES STAFF COLLEGE.—(1) The duration of the principal course of instruction offered at the Joint Forces Staff College may not be less than 10 weeks of resident instruction.

''(2) In this subsection, the term 'principal course of instruction' means any course of instruction offered at the Joint Forces Staff College as Phase II joint professional military education.

''§ 2158. Annual report to Congress

''The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title, for the period covered by the report, the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps and each reserve component):

''(1) The number of officers who successfully completed a joint professional military education phase II course and were not selected for promotion.

''(2) The number of officer students and faculty members assigned by each service to the professional military schools of the other services and to the joint schools.''.

(b) TRANSFER OF OTHER PROVISIONS.—Subsections (b) and (c) of section 663 of title 10, United States Code, are transferred to section 2151 of such title, as added by subsection (a), and added at the end thereof.

(c) CONFORMING AMENDMENTS.—(1) Section 663 of such title, as amended by subsection (b), is further amended—

(A) by striking subsections (a) and (e); and

(B) by striking ''(d) POST-EDUCATION JOINT DUTY ASSIGNMENTS.—(1) The'' and inserting ''(a) JOINT SPECIALTY OFFICERS.—The'';

(C) by striking ''(2)(A) The Secretary'' and inserting ''(b) OTHER OFFICERS.—(1) The Secretary'';

(D) by striking ''in subparagraph (B)' and inserting ''in paragraph (2)'';

(E) by striking ''(B) The Secretary'' and inserting ''(2) The Secretary''; and

(F) by striking ''in subparagraph (B)' and inserting ''in paragraph (1)''.

(2)(A) The heading of such section is amended to read as follows:

''§ 633. Joint duty assignments after completion of joint professional military education''.

(B) The item relating to that section in the table of sections at the beginning of chapter 38 of such title is amended to read as follows:

''633. Joint duty assignments after completion of joint professional military education.''.

(d) CONFORMING REPEAL.—Section 1123(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1556) is repealed.

(e) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of title 10, United States Code, are amended by striking the item relating to chapter 107 and inserting the following:

''106A. Educational Assistance for Persons Enlisting for Active Duty 2141

''107. Professional Military Education ..... 2151''.

SEC. 542. RIBBONS TO RECOGNIZE COMPLETION OF JOINT PROFESSIONAL MILITARY EDUCATION.

(a) IN GENERAL.—(1) Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1134. Joint professional military education ribbon: award

''(a) JPME I.—The Secretary of Defense may award a ribbon, of appropriate design, as approved by the Secretary, to any person who successfully completes a program of instruction approved by the Secretary as qualifying for credit as the Joint Professional Military Education Phase I program of instruction.

''(b) JPME II.—The Secretary of Defense may award a device, of appropriate design, as approved by the Secretary, for wear with the ribbon awarded under subsection (a), to any person who successfully completes a program of instruction approved by the Secretary as qualifying for credit as the Joint Professional Military Education Phase II course of instruction.''.

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

''1134. Joint professional military education ribbon: award.''.

(b) EFFECTIVE DATE.—Section 1134 of title 10, United States Code, as added by subsection (a), shall apply with respect to the successful completion of a joint professional military education program of instruction after November 29, 1989.

SEC. 543. INCREASE IN NUMBER OF PRIVATE-SECTOR CIVILIANS WHO MAY BE ENROLLED FOR INSTRUCTION AT NATIONAL DEFENSE UNIVERSITY.

Section 2167(a) of title 10, United States Code, is amended by striking ''10'' and inserting ''20''.

SEC. 544. REQUIREMENT FOR COMPLETION OF PHASE I JOINT PROFESSIONAL MILITARY EDUCATION BEFORE PROMOTION TO COLONEL OR NAVY CAPTAIN.

(a) IN GENERAL.—Chapter 36 of title 10, United States Code, is amended by inserting after section 619a the following new section:

"§ 619b. Eligibility for consideration for promotion: joint professional military education required before promotion to colonel or Navy captain; exceptions

''(a) GENERAL RULE.—After September 30, 2007, an officer on the active-duty list of the Army, Air Force, or Marine Corps may not be appointed to the grade of colonel, and an officer on the active-duty list of the Navy may not be appointed to the grade of captain, unless the officer has successfully completed a program of instruction approved by the Secretary as qualifying for credit as the Joint Professional Military Education Phase I or Phase II program of instruction.

''(b) EXCEPTIONS.—Subject to subsection (c), the Secretary of Defense may waive subsection (a) in the following circumstances:

''(1) When necessary for the good of the service.

''(2) In the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

''(3) In the case of—

''(A) a medical officer, dental officer, veterinary officer, medical service officer, nurse, or biomedical science officer;

''(B) a chaplain; or

''(C) a judge advocate.

''(c) WAIVER TO BE INDIVIDUAL.—A waiver may be granted under subsection (b) only on a case-by-case basis in the case of an individual officer.

''(d) SPECIAL RULE FOR GOOD-OF-THE-SERVICE WAIVER.—In the case of a waiver under subsection (b)(1), the Secretary shall provide that the first duty assignment as a colonel or Navy captain of the officer for whom the waiver is granted shall be to a program of joint professional military education.

''(e) LIMITATION ON DELEGATION OF WAIVER AUTHORITY.—The authority of the Secretary of Defense to grant a waiver under subsection (b) (other than under paragraph (1) of that subsection) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense.

''(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. The regulations shall specifically identify for purposes of subsection (b)(2) those categories of officers for which selection for promotion to colonel or, in the case of the Navy, captain is based primarily upon scientific and technical qualifications for which joint requirements do not exist.''.

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

''619b. Eligibility for consideration for promotion: joint professional military education required before promotion to colonel or Navy captain; exceptions.''.

Subtitle F—Other Education and Training Matters

SEC. 551. COLLEGE FIRST DELAYED ENLISTMENT PROGRAM.

(a) CODIFICATION AND EXTENSION OF ARMY PROGRAM.—(1) Chapter 31 of title 10, United States Code, is amended by inserting after section 510 the following new section:

"§ 511. College First Program

''(a) PROGRAM AUTHORITY.—The Secretary of each military department may establish a program to increase the number of, and the level of the qualifications of, persons entering the armed forces as enlisted members by encouraging recruits to pursue higher education or vocational or technical training before entry into active service.

''(b) DELAYED ENTRY WITH ALLOWANCE FOR HIGHER EDUCATION.—The Secretary concerned may—

''(1) exercise the authority under section 513 of this title—

''(A) to accept the enlistment of a person as a Reserve for service in the Selected Reserve or Individual Ready Reserve of a reserve component, notwithstanding the scope of the authority under subsection (a) of that section, in the case of the Army National Guard of the United States or Air National Guard of the United States; and

''(B) to authorize, notwithstanding the period limitation in subsection (b) of that section, a delay of the enlistment of any such person in a regular component under that subsection for the period during which the person is enrolled in, and pursuing a program of education at, an institution of higher education, or a program of vocational or technical training, on a full-time basis that is to be completed within the maximum period of delay determined for that person under subsection (c); and

''(2) subject to paragraph (2) of subsection (d) and except as provided in paragraph (3) of that subsection, pay an allowance to a person accepted for enlistment under paragraph (1)(A) for each month of the period during which that person is enrolled in and pursuing a program described in paragraph (1)(B).

''(c) MAXIMUM PERIOD OF DELAY.—The period of delay authorized a person under paragraph (1)(B) of subsection (b) may not exceed the 30-month period beginning on the date of the person's enlistment accepted under paragraph (1)(A) of such subsection.

''(d) ALLOWANCE.—(1) The monthly allowance paid under subsection (b)(2) shall be equal to the amount of the subsistence allowance provided for certain members of the Senior Reserve Officers' Training Corps with the corresponding number of years of participation under section 209(a) of title 37. The Secretary concerned may supplement that stipend by an amount not to exceed $225 per month.

''(2) An allowance may not be paid to a person under this section for more than 24 months.

''(3) A member of the Selected Reserve of a reserve component may be paid an allowance under this section only for months during which the member performs satisfactorily as a member of a unit of the reserve component that trains as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32. Satisfactory performance shall be determined under regulations prescribed by the Secretary concerned.

''(4) An allowance under this section is in addition to any other pay or allowance to which a member of a reserve component is entitled by reason of participation in the Ready Reserve of that component.

''(e) RECOUPMENT OF ALLOWANCE.—(1) A person who, after receiving an allowance under this section, fails to complete the total period of service required of that person in connection with delayed entry authorized for the person under section 513 shall repay the United States the amount which bears the same ratio to the total amount of that allowance paid to the person as the unserved part of the total required period of service bears to the total period.

''(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

''(3) A discharge of a person in bankruptcy under title 11 that is entered less than five years after the date on which the person was, or was to be, enlisted in the regular Army pursuant to the delayed entry authority under section 513 does not discharge that person from a debt arising under paragraph (1).

''(4) The Secretary concerned may waive, in whole or in part, a debt arising under paragraph (1) in any case for which the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

''(f) SPECIAL PAY AND BONUSES.—Upon enlisting in the regular component of the member's armed force, a person who initially enlisted as a Reserve under this section may, at the discretion of the Secretary concerned, be eligible for all regular special pays, bonuses, education benefits, and loan repayment programs.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 510 the following new item:

''511. College First Program''.

(b) REPEAL OF ARMY COLLEGE FIRST PROGRAM.—Section 573 of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 513 note) is repealed. The Secretary of the Army shall treat the program under section 511 of title 10, United States Code, as added by subsection (a), as a continuation of the program under the section repealed by the preceding sentence.

(c) EFFECTIVE DATE.—Section 511 of title 10, United States Code, as added by subsection (a), and the repeal made by subsection (b) shall take effect on October 1, 2004.

(d) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 511 of title 10, United States Code, as added by subsection (a), to pay allowances to persons accepted for enlistment as a Reserve for service in the Selected Reserve or Individual Ready Reserve of a reserve component using the expanded authority provided by the amendment made by subsection (a) may not exceed $5,000,000. The authority to pay allowances under such section shall not be considered to be an expanded authority to the extent that the authority to pay such allowances was available under section 573 of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 513 note), before the repeal of such section by subsection (b).

SEC. 552. STANDARDIZATION OF AUTHORITY TO CONFER DEGREES ON GRADUATES OF COMMUNITY COLLEGE OF THE AIR FORCE WITH AUTHORITY FOR OTHER SCHOOLS OF AIR UNIVERSITY.

(a) CHANGE IN DEGREE CONFERRING AUTHORITY.—Section 9315(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking ''Air Education and Training Command of the Air Force'' and inserting ''Air University''; and

(2) in paragraph (2), by striking ''Air Education and Training Command of the Air Force'' and inserting ''Air University''.

(b) CONFORMING AND STYLISTIC AMENDMENTS.—(1) Subsection (a) of section 9317 of such title is amended—

(1) by striking ''may confer—'' and inserting ''may confer degrees as follows:'';

(2) by striking ''the'' in paragraphs (1), (2), and (3) after the paragraph designation and inserting ''The'';

(3) by striking the semicolon at the end of paragraph (1) and inserting a period;

(4) by striking ''; and'' at the end of paragraph (2) and inserting a period; and

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

''(4) An associate level degree upon graduates of the Community College of the Air Force.''.

(c) CLERICAL AMENDMENTS.—The heading for such section, and the item relating to such section in the table of sections at the beginning of chapter 901 of such title, are amended by striking the matter between the colon and the last word.

SEC. 553. CHANGE IN TITLES OF HEADS OF THE NAVAL POSTGRADUATE SCHOOL.

(a) PRESIDENT OF THE SCHOOL.—(1)(A) Section 7042 of title 10, United States Code, is amended by striking ''Superintendent'' each place it appears in the text and inserting ''President''.

(B) The heading of such section is amended to read as follows:

"§ 7042. President; assistants".

(2)(A) Section 7044 of such title is amended by striking ''Superintendent'' and inserting ''President of the school'';

(B) Sections 7048(a) and 7049(e) of such title are amended by striking ''Superintendent'' and inserting ''President'';

(b) PROVOST AND ACADEMIC DEAN.—(1)(A) Subsection (a) of section 7043 of title 10, United States Code, is amended to read as follows:

''(a) There is at the Naval Postgraduate School the civilian position of Provost and Academic Dean. The Provost and Academic Dean shall be appointed, to serve for periods of not more than five years, by the Secretary of the Navy after consultation with the Naval Postgraduate School Board of Advisors and consideration of the recommendation of the leadership and faculty of the Naval Postgraduate School.''.

(B) Subsection (b) of such section is amended by striking ''Academic Dean'' and inserting ''Provost and Academic Dean''.

(C) The heading of such section is amended to read as follows:

"§ 7043. Provost and Academic Dean".

(2) Section 5102(c)(10) of title 5, United States Code, is amended by striking ''Academic Dean'' and inserting ''Provost and Academic Dean''.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 605 of such title is amended by striking the items related to sections 7042 and 7043 and inserting the following new items:

''7042. President; assistants.

''7043. Provost and Academic Dean.''.

SEC. 554. INCREASE FROM TWO YEARS TO THREE YEARS IN PERIOD FOR WHICH EDUCATIONAL LEAVE OF ABSENCE MAY BE AUTHORIZED.

Section 708(a) of title 10, United States Code, is amended by striking ''two years'' and inserting ''three years''.

SEC. 555. CORRECTION TO DISPARATE TREATMENT OF DISABILITIES SUSTAINED DURING ACCESSION TRAINING.

(a) ELIGIBILITY OF ACADEMY CADETS AND MIDSHIPMEN FOR DISABILITY RETIRED PAY.—(1) Section 1217 of title 10, United States Code, is amended to read as follows:

"§ 1217. Cadets, midshipmen, and aviation cadets: applicability of chapter

''(a) This chapter applies to cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy and midshipmen of the Navy, but only with respect to physical disabilities incurred after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005.

''(b) Monthly cadet pay and monthly midshipman pay under section 203(c) of title 37 shall be considered to be basic pay for purposes of this chapter and the computation of retired pay and severance and separation pay to which entitlement is established under this chapter.''.

(2) The item related to section 1217 in the table of sections at the beginning of chapter 61 of such title is amended to read as follows:

''1217. Cadets, midshipmen, and aviation cadets: applicability of chapter.''.

(b) MEDICAL AND DENTAL CARE FOR SENIOR ROTC MEMBERS AND APPLICANTS.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1074a the following new section:

"§ 1074b. Medical and dental care: members of, and designated applicants for membership in, Senior ROTC

''(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

''(1) A member of, and a designated applicant for membership in, Senior ROTC who incurs or aggravates an injury, illness, or disease in the line of duty while performing duties pursuant to section 2109 of this title.

''(2) A member of, and a designated applicant for membership in, Senior ROTC who incurs or aggravates an injury, illness, or disease while traveling directly to or from the place at which that member or applicant is to perform or has performed duties pursuant to section 2109 of this title.

''(3) Each member of, and each designated applicant for membership in, Senior ROTC who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight immediately before the commencement of duties performed pursuant to section 2109 of this title or, while remaining overnight, between successive periods of performing duties pursuant to section 2109 of this title, at or in the vicinity of the site of the duties performed pursuant to section 2109 of this title, if the site is outside reasonable commuting distance from the residence of the member or designated applicant.

''(b) A person described in subsection (a) is entitled to—

''(1) the medical and dental care appropriate for the treatment of the injury, illness, or disease of that person until the resulting disability cannot be materially improved by further hospitalization or treatment; and

''(2) subsistence during hospitalization.

''(c) A member of, and each designated applicant for membership in, Senior ROTC is not entitled to benefits under subsection (b) if the injury, illness, or disease or aggravation of an injury, illness, or disease of that person described in subsection (a)(2) is the result of the gross negligence or the misconduct of the member or applicant for membership in Senior ROTC.

''(d) In this section, the term 'Senior ROTC' means a program under chapter 103 of this title.''.

(2) Section 1074b of title 10, United States Code, as added by paragraph (1), shall apply with respect to injuries, illnesses, and diseases incurred or aggravated on or after the date of the enactment of this Act.

(3) The table of sections at the beginning of chapter 55 of such title is amended by inserting after the item relating to section 1074a the following new item:

''1074b. Medical and dental care: members of, and designated applicants for membership in, Senior ROTC.''.

SEC. 556. PRAYER AT MILITARY SERVICE ACADEMY ACTIVITIES.

(a) AUTHORITY OF SUPERINTENDENT.—The Superintendent of a service academy may have in effect such policy as the Superintendent considers appropriate with respect to the offering of a voluntary, nondenominational prayer at an otherwise authorized activity of the academy, subject to such limitations as the President may prescribe.

(b) SERVICE ACADEMIES.—For purposes of this section, the term ''service academy'' means any of the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

SEC. 557. REVISION TO CONDITIONS ON SERVICE OF OFFICERS AS SERVICE ACADEMY SUPERINTENDENTS.

(a) REPEAL OF REQUIREMENT THAT OFFICERS RETIRE AFTER SERVICE AS SUPERINTENDENT.—Sections 3921, 6371, and 8921 of title 10, United States Code, are repealed.

(b) MINIMUM THREE-YEAR TOUR OF DUTY AS SUPERINTENDENT.—

(1) MILITARY ACADEMY.—Section 4333a of such title is amended to read as follows:

"§ 4333a. Superintendent: length of assignment

''An officer who is detailed to the position of Superintendent of the Academy shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Army shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.''.

(2) NAVAL ACADEMY.—Section 6951a of such title is amended—

(A) by striking the second sentence of subsection (b); and

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

''(c) An officer who is detailed to the position of Superintendent shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Navy shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.''.

(3) AIR FORCE ACADEMY.—Section 9333a of such title is amended to read as follows:

"§ 9333a. Superintendent: length of assignment

''An officer who is detailed to the position of Superintendent of the Academy shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Air Force shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.''.

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 367 of such title is amended by striking the item relating to section 3921.

(2) The table of sections at the beginning of chapter 403 of such title is amended to read as follows:

''4333a. Superintendent: length of assignment.''

(3) The table of sections at the beginning of chapter 573 of such title is amended by striking the item relating to section 6371.

(4) The table of sections at the beginning of chapter 867 of such title is amended by striking the item relating to section 8921.

(5) The table of sections at the beginning of chapter 903 of such title is amended to read as follows:

''9333a. Superintendent: length of assignment.''

SEC. 558. CODIFICATION OF PROHIBITION ON IMPOSITION OF CERTAIN CHARGES AND FEES AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4359. Cadets: charges and fees for attendance; limitation

''(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

''(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.''.

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

''4359. Cadets: charges and fees for attendance; limitation.''.

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 6978. Midshipmen: charges and fees for attendance; limitation

''(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Naval Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

''(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to midshipmen for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Naval Academy in the amount of a charge or fee authorized under this subsection.''.

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

''4359. Midshipmen: charges and fees for attendance; limitation.''.

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 9359. Cadets: charges and fees for attendance; limitation

''(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

''(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.''.

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

''9359. Cadets: charges and fees for attendance; limitation.''.

(d) UNITED STATES COAST GUARD ACADEMY.—(1) Chapter 9 of title 14, United States Code, is amended by adding at the end the following new section:

''§ 197. Cadets: charges and fees for attendance; limitation

''(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

''(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Homeland Security shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.''.

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

''197. Cadets: charges and fees for attendance; limitation.''.

(e) UNITED STATES MERCHANT MARINE ACADEMY.—Section 1303 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b), is amended by adding at the end the following new subsection:

''(j) LIMITATION ON CHARGES AND FEES FOR ATTENDANCE.—

''(1) Except as provided in paragraph (2), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

''(2)The prohibition specified in paragraph (1) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Transportation shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this paragraph.''.

(f) REPEAL OF CODIFIED PROVISION.—Section 553 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 4331 note) is repealed.

SEC. 559. QUALIFICATIONS OF THE DEAN OF THE FACULTY OF UNITED STATES AIR FORCE ACADEMY.

Section 9335(a) of title 10, United States Code, is amended by inserting before the period at the end of the second sentence the following: '', except that, if the Dean is not an officer on active duty, the Dean shall be a retired officer or former officer, and a person may not be appointed or assigned as Dean unless that person holds the highest academic degree in that person's academic field''.

Subtitle G—Medals and Decorations and Special Promotions and Appointments

SEC. 561. SEPARATE MILITARY CAMPAIGN MEDALS TO RECOGNIZE SERVICE IN OPERATION ENDURING FREEDOM AND SERVICE IN OPERATION IRAQI FREEDOM.

(a) REQUIREMENT.—The President shall establish a campaign medal specifically to recognize service by members of the uniformed services in Operation Enduring Freedom and a separate campaign medal specifically to recognize service by members of the uniformed services in Operation Iraqi Freedom.

(b) ELIGIBILITY.—Subject to such limitations as may be prescribed by the President, eligibility for a campaign medal established pursuant to subsection (a) shall be set forth in regulations to be prescribed by the Secretary concerned (as defined in section 101 of title 10, United States Code). In the case of regulations prescribed by the Secretaries of the military departments, the regulations shall be subject to approval by the Secretary of Defense and shall be uniform throughout the Department of Defense.

SEC. 562. ELIGIBILITY OF ALL UNIFORMED SERVICES PERSONNEL FOR NATIONAL DEFENSE SERVICE MEDAL.

The President shall revise the criteria for eligibility for the decoration known as the National Defense Service Medal so as to extend such eligibility, with respect to service on or after September 11, 2001, to members of all of the uniformed services.

SEC. 563. AUTHORITY TO APPOINT BRIGADIER GENERAL CHARLES E. YEAGER, UNITED STATES AIR FORCE (RETIRED), TO THE GRADE OF MAJOR GENERAL ON THE RETIRED LIST.

The President is authorized to appoint, by and with the advice and consent of the Senate, Brigadier General Charles E. Yeager, United States Air Force (retired), to the grade of major general on the retired list of the Air Force. Any such appointment shall not affect the retired pay or other benefits of Charles E. Yeager or any benefits to which any other person is or may become entitled based upon his service.

SEC. 564. POSTHUMOUS COMMISSION OF WILLIAM MITCHELL IN THE GRADE OF MAJOR GENERAL IN THE ARMY.

(a) AUTHORITY.—The President, by and with the advice and consent of the Senate, may issue posthumously a commission as major general, United States Army, in the name of the late William Mitchell, formerly a colonel, United States Army, who resigned his commission on February 1, 1926.

(b) DATE OF COMMISSION.—A commission issued under subsection (a) shall issue as of the date of the death of William Mitchell on February 19, 1936.

(c) PROHIBITION OF BENEFITS.—No person is entitled to receive any bonus, gratuity, pay, allowance, or other financial benefit by reason of the enactment of this section.

Subtitle H—Military Justice Matters

SEC. 571. REVIEW ON HOW SEXUAL OFFENSES ARE COVERED BY UNIFORM CODE OF MILITARY JUSTICE.

(a) REVIEW REQUIRED.—The Secretary of Defense shall review the Uniform Code of Military Justice and the Manual for Courts-Martial with the objective of determining what changes are required to improve the ability of the military justice system to address issues relating to sexual assault and to conform the Uniform Code of Military Justice and the Manual for Courts-Martial more closely to other Federal laws and regulations that address such issues.

(b) REPORT.—Not later than March 1, 2005, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the review carried out under subsection (a). The report shall include the recommendations of the Secretary for revisions to the Uniform Code of Military Justice and, for each such revision, the rationale behind that revision.

SEC. 572. SERVICE TIME NOT LOST WHEN CONFINED IN CONNECTION WITH TRIAL IF CONFINEMENT EXCUSED AS UNAVOIDABLE.

Section 972 of title 10, United States Code, is amended in each of subsections (a)(3) and (b)(3) by inserting after ''the trial'' the following: '', unless such confinement is excused as unavoidable''.

SEC. 573. CLARIFICATION OF AUTHORITY OF MILITARY LEGAL ASSISTANCE COUNSEL TO PROVIDE MILITARY LEGAL ASSISTANCE WITHOUT REGARD TO LICENSING REQUIREMENTS.

Section 1044 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(e)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

''(2) In this subsection, the term 'military legal assistance' includes—

''(A) legal assistance provided under this section; and

''(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.''.

Subtitle I—Management and Administrative Matters

SEC. 581. THREE-YEAR EXTENSION OF LIMITATION ON REDUCTIONS OF PERSONNEL OF AGENCIES RESPONSIBLE FOR REVIEW AND CORRECTION OF MILITARY RECORDS.

Section 1559(a) of title 10, United States Code, is amended by striking ''During fiscal years 2003, 2004, and 2005,'' and inserting ''Before October 1, 2008,''.

SEC. 582. STAFFING AND FUNDING FOR DEFENSE PRISONER OF WAR/MISSING PERSONNEL OFFICE (DPMO).

(a) MINIMUM LEVEL OF STAFFING.—Subparagraph (B) of section 1501(a)(5) of title 10, United States Code, is amended to read as follows:

''(B)(i) For any fiscal year—

''(I) the number of full-time Department of Defense personnel permanently assigned or detailed to the office shall be not less than 46 members of the armed forces and not less than 69 civilian employees of the Department of Defense; and

''(II) the number of permanent positions authorized for the office shall be not less than 46 positions for members of the armed forces and not less than 69 positions for civilian employees.

''(ii) No reductions below the numbers assigned or authorized under clause (i) may be made unless expressly authorized by law.

''(iii) If for any reason the number of military or civilian personnel assigned to the office should fall below the required level under clause (i)(I), the Secretary of Defense shall promptly notify the Committees on Armed Services of the Senate and House of Representatives of the number of personnel so assigned and of the Secretary's plan to restore the staffing levels of the office to at least the required minimums under clause (i). The Secretary shall publish such notice and plan in the Federal Register.''.

(b) MINIMUM LEVEL OF FUNDING.—Subparagraph (C) of such section is amended to read as follows:

''(C) For any fiscal year, the level of funding allocated to the office shall be not less than $16,000,000 unless a lower level of funding is expressly required by law.''.

SEC. 583. PERMANENT ID CARDS FOR RETIREE DEPENDENTS AGE 70 AND OLDER.

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1060b. Military ID cards: dependents and survivors of retirees; issuance of permanent ID card after attaining 70 years of age

''(a) PERMANENT ID CARD AFTER AGE 70.—In issuing military ID cards to retiree dependents, the Secretary concerned shall issue a permanent ID card (not subject to renewal) to any such retiree dependent who has attained 70 years of age. Such a permanent ID card shall be issued upon the expiration, after the retiree dependent attains 70 years of age, of any earlier, renewable military ID card or, if earlier, upon the request of such a retiree dependent after attaining age 70.

''(b) DEFINITIONS.—In this section:

''(1) The term 'military ID card' means a card or other form of identification used for purposes of demonstrating eligibility for any benefit from the Department of Defense.

''(2) The term ''retiree dependent'' means a person who is a dependent of a retired member of the uniformed services, or a survivor of a deceased retired member of the uniformed services, who is eligible for any benefit from the Department of Defense.''.

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

''1060b. Military ID cards: dependents and survivors of retirees; issuance of permanent ID card after attaining 70 years of age.''.

(b) EFFECTIVE DATE.—Section 1060b of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2004.

SEC. 584. AUTHORITY TO PROVIDE CIVILIAN CLOTHING TO MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.

(a) AUTHORITY.—Section 1047 of title 10, United States Code, is amended—

(1) by inserting ''(b) CERTAIN ENLISTED MEMBERS.—'' before ''The Secretary''; and

(2) by inserting after the section heading the following:

''(a) MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.—The Secretary of the military department concerned may furnish civilian clothing to a member at a cost not to exceed $250, or reimburse a member for the purchase of civilian clothing in an amount not to exceed $250, in the case of a member who—

''(1) is medically evacuated for treatment in a medical facility by reason of an illness or injury incurred or aggravated while on active duty; or

''(2) after being medically evacuated as described in paragraph (1), is in an authorized travel status from a medical facility to another location approved by the Secretary.''.

(b) EFFECTIVE DATE.—Subsection (a) of section 1047 of title 10, United States Code, as added by subsection (a) shall take effect on October 1, 2004.

SEC. 585. AUTHORITY TO ACCEPT DONATION OF FREQUENT TRAVELER MILES, CREDITS, AND TICKETS TO FACILITATE REST AND RECUPERATION TRAVEL OF DEPLOYED MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) OPERATION HERO MILES.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2613. Acceptance of frequent traveler miles, credits, and tickets; use to facilitate rest and recuperation travel of deployed members and their families

''(a) AUTHORITY TO ACCEPT DONATION OF TRAVEL BENEFITS.—Subject to subsection (c), the Secretary of Defense may accept from any person or government agency the donation of travel benefits for the purposes of use under subsection (d).

''(b) TRAVEL BENEFIT DEFINED.—In the section, the term ''travel benefit'' means frequent traveler miles, credits for tickets, or tickets for air or surface transportation issued by an air carrier or a surface carrier, respectively, that serves the public.

''(c) CONDITION ON AUTHORITY TO ACCEPT DONATION.—The Secretary may accept a donation of a travel benefit under this section only if the air or surface carrier that is the source of the benefit consents to such donation. Any such donation shall be under such terms and conditions as the surface carrier may specify, and the travel benefit so donated may be used only in accordance with the rules established by the carrier.

''(d) USE OF DONATED TRAVEL BENEFITS.—A travel benefit accepted under this section may be used only for the purpose of—

''(1) facilitating the travel of a member of the armed forces who—

''(A) is deployed on active duty away from the permanent duty station of the member; and

''(B) is granted, during such deployment, rest and recuperative leave, emergency leave, convalescent leave, or another form of leave authorized for the member; or

''(2) facilitating the travel of family members of a member described in paragraph (1) in order to be reunited with the member.

''(e) ADMINISTRATION.—The Secretary shall designate a single office in the Department of Defense to carry out this section. That office shall be responsible for developing rules and procedures to facilitate the acceptance and distribution of travel benefit under this section.

''(f) STATUS OF BENEFITS RECEIVED.—A member of the armed forces, or a family member of a member of the armed forces, who receives a travel benefit under this section is deemed to recognize no income from the receipt or use of such benefit. A donors of a travel benefit under this section is deemed to obtain no tax benefit from such donation.

''(g) FAMILY MEMBER DEFINED.—In this section, the term 'family member' has the meaning given that term in section 411h(b)(1) of title 37.''.

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

''2613. Acceptance of frequent traveler miles, credits, and tickets; use to facilitate rest and recuperation travel of deployed members and their families.''.

SEC. 586. LIMITATION ON AMENDMENT OR CANCELLATION OF DEPARTMENT OF DEFENSE DIRECTIVE RELATING TO REASONABLE ACCESS TO MILITARY INSTALLATIONS FOR CERTAIN PERSONAL COMMERCIAL SOLICITATION.

An amendment to Department of Defense Directive 1344.7, ''Personal Commercial Solicitation on DoD Installations'', or cancellation of that directive, shall not take effect until after the end of the one-year period beginning on the date on which a report containing the results of the investigation regarding insurance premium allotment processing, which is underway as of the date of the enactment of this Act, is submitted to the Committee on Armed Services and the Committee on Government Reform of the House of Representatives and the Committee on Armed Services and the Committee on Governmental Affairs of the Senate.

SEC. 587. ANNUAL IDENTIFICATION OF REASONS FOR DISCHARGES FROM THE ARMED FORCES DURING PRECEDING FISCAL YEAR.

Not later than January 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on discharges from the Army, Navy, Air Force, and Marine Corps during the preceding fiscal year. Each such report shall show, in the aggregate and for each of those Armed Forces, the following:

(1) The total number of persons discharged during the preceding fiscal year.

(2) For each separation code, and for each reenlistment eligibility code, used by the Armed Forces, the number of those discharged persons assigned that code.

(3) For the persons assigned each such separation code, classification of discharges by age, by sex, by race, by military rank or grade, by time in service, by unit (shown at the small unit level), by military occupational specialty (or the equivalent), and by reenlistment eligibility code.

SEC. 588. AUTHORITY FOR FEDERAL RECOGNITION OF NATIONAL GUARD COMMISSIONED OFFICERS APPOINTED FROM FORMER COAST GUARD PERSONNEL.

Section 305(a) of title 32, United States Code, is amended—

(1) by striking ''Army, Navy, Air Force, or Marine Corps'' in paragraphs (2), (3), and (4) and inserting ''armed forces''; and

(2) by striking ''or the United States Air Force Academy'' in paragraph (5) and inserting ''the United States Air Force Academy, or the United States Coast Guard Academy''.

SEC. 589. STUDY OF BLENDED WING CONCEPT FOR THE AIR FORCE.

(a) STUDY REQUIRED.—Not later than March 1, 2005, the Secretary of the Air Force shall submit to Congress a report on the blended wing concept for the Air Force. The report shall include the Secretary's findings as to the characteristics and locations that are considered favorable for a blended wing, a description of the manner in which current blended wings are functioning, and a statement of the current and future plans of the Air Force to implement the blended wing concept.

(b) SELECTION CRITERIA.—The report shall include a description of the criteria and attributes that the Secretary requires when choosing units to become blended wings.

SEC. 590. CONTINUATION OF IMPACT AID ASSISTANCE ON BEHALF OF DEPENDENTS OF CERTAIN MEMBERS DESPITE CHANGE IN STATUS OF MEMBER.

(a) SPECIAL RULE.—For purposes of computing the amount of a payment for an eligible local educational agency under subsection (a) of section 8003 of the Elementary and Secondary Education Act (20 U.S.C. 7703) for school year 2004–2005, the Secretary of Education shall continue to count as a child enrolled in a school of such agency under such subsection any child who—

(1) would be counted under paragraph (1)(B) of such subsection to determine the number of

children who were in average daily attendance in the school; but

(2) due to the deployment of both parents or legal guardians of the child, the deployment of a parent or legal guardian having sole custody of the child, or the death of a military parent or legal guardian while on active duty (so long as the child resides on Federal property (as defined in section 8013(5) of such Act (7 U.S.C. 7713(5))), is not eligible to be so counted.

(b) TERMINATION.—The special rule provided under subsection (a) applies only so long as the children covered by such subsection remain in average daily attendance at a school in the same local educational agency they attended before their change in eligibility status.

Subtitle J—Other Matters

SEC. 591. EMPLOYMENT PREFERENCES FOR SPOUSES OF CERTAIN DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES SUBJECT TO RELOCATION AGREEMENTS.

(a) SPOUSES OF CERTAIN CIVILIAN EMPLOYEES.—(1) Section 1784 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(h) INCLUSION OF SPOUSES OF CERTAIN DOD CIVILIAN EMPLOYEES SUBJECT TO RELOCATION AGREEMENTS.—(1) For the purposes of this section, the spouse of a civilian employee described in paragraph (2) shall be considered to be the spouse of a member of the armed forces.

''(2) An employee described in this paragraph is a Department of Defense employee who, pursuant to a mandatory mobility agreement executed as a condition of employment or pursuant to another civilian mobility program of the Department of Defense, has had a change of permanent duty assignment (A) that was based on the needs of the Government, and (B) that required a relocation of the employee's residence.''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 1784. Employment opportunities: military spouses; certain Department of Defense civilian spouses subject to relocation agreements''.

(2) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 88 of such title is amended to read as follows:

''1784. Employment opportunities: military spouses; certain Department of Defense civilian spouses subject to relocation agreements.''.

(c) EFFECTIVE DATE.—Subsection (h) of section 1784 of title 10, United States Code, as added by subsection (a), shall apply only with respect to spouses of employees described in paragraph (2) of that subsection who relocate their residence as a result of a permanent duty assignment specified in that paragraph that is effective on or after the date of the enactment of this Act.

SEC. 592. REPEAL OF REQUIREMENT TO CONDUCT ELECTRONIC VOTING DEMONSTRATION PROJECT FOR THE FEDERAL ELECTION TO BE HELD IN NOVEMBER 2004.

Section 1604 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1277; 42 U.S.C. 1977ff note) is repealed.

SEC. 593. EXAMINATION OF SEXUAL ASSAULT IN THE ARMED FORCES BY THE DEFENSE TASK FORCE ESTABLISHED TO EXAMINE SEXUAL HARASSMENT AND VIOLENCE AT THE MILITARY SERVICE ACADEMIES.

(a) EXTENSION OF TASK FORCE.—(1) The task force in the Department of Defense established by the Secretary of Defense pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1466) to examine matters relating to sexual harassment and violence at the United States Military Academy and United States Naval Academy shall continue in existence for a period of at least 18 months after the date as of which the task force would otherwise be terminated pursuant to subsection (i) of that section.

(2) Upon the completion of the functions of the task force referred to in paragraph (1) pursuant to section 526 of the National Defense Authorization Act for Fiscal Year 2004, the name of the task force shall be changed to the Defense Task Force on Sexual Assault in the Military Services, and the task force shall then carry out the functions specified in this section. The task force shall not begin to carry out the functions specified in this section until it has completed its functions under such section 526.

(b) EXAMINATION OF MATTERS RELATING TO SEXUAL ASSAULT IN THE ARMED FORCES.—The task force shall conduct an examination of matters relating to sexual assault in cases in which members of the Armed Forces are either victims or commit acts of sexual assault.

(c) RECOMMENDATIONS.—The Task Force shall include in its report under subsection (e) recommendations of ways by which civilian officials within the Department of Defense and leadership within the Armed Forces may more effectively address matters relating to sexual assault. That report shall include an assessment of, and recommendations (including any recommendations for changes in law) for measures to improve, with respect to sexual assault, the following:

(1) Victim care and advocacy programs.

(2) Effective prevention.

(3) Collaboration among military investigative organizations with responsibility or jurisdiction.

(4) Coordination between military and civilian communities, including local support organizations.

(5) Reporting procedures, data collection, and tracking.

(6) Oversight of sexual assault programs.

(7) Military justice issues.

(8) Other issues identified by the task force relating to sexual assault.

(d) METHODOLOGY.—In carrying out its examination under subsection (b) and in formulating its recommendations under subsection (c), the task force shall consider the findings and recommendations of previous reviews and investigations of sexual assault conducted by the Department of Defense and the Armed Forces.

(e) REPORT.—(1) Not later than one year after the initiation of its examination under subsection (b), the task force shall submit to the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force a report on the activities of the task force and on the activities of the Department of Defense and the Armed Forces to respond to sexual assault.

(2) The report shall include the following:

(A) A description of any barrier to implementation of improvements as a result of previous efforts to address sexual assault.

(B) Other areas of concern not previously addressed in prior reports

(C) The findings and conclusions of the task force.

(D) Any recommendations for changes to policy and law that the task force considers appropriate.

(3) Within 90 days after receipt of the report under paragraph (1), the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (e)(3).

SEC. 594. RENEWAL OF PILOT PROGRAM FOR TREATING GED AND HOME SCHOOL DIPLOMA RECIPIENTS AS HIGH SCHOOL GRADUATES FOR DETERMINATIONS OF ELIGIBILITY FOR ENLISTMENT.

Section 571(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 520 note) is amended to read as follows:

''(e) DURATION OF PILOT PROGRAM.—The pilot program shall be in effect during the period beginning on October 1, 2004, and ending on September 30, 2005.''.

SEC. 595. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2005.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $50,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2005, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2005 of—

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term ''educational agencies assistance'' means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term ''local educational agency'' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 596. SENIOR RESERVE OFFICER TRAINING CORPS AND RECRUITER ACCESS AT INSTITUTIONS OF HIGHER EDUCATION.

(a) CERTIFICATION OF COMPLIANCE WITH ROTC ACCESS PROVISIONS.—Subsection (a) of section 983 of title 10, United States Code, is amended—

(1) by inserting ''(1)'' before ''No funds'';

(2) by striking ''prevents—'' and inserting ''prevents, either (or both) of the following:'';

(3) by striking ''(1) the'' and inserting ''(A) The'';

(4) by striking ''; or'' and inserting a period;

(5) by striking ''(2) a'' and inserting ''(B) A''; and

(6) by adding at the end the following:

''(2)(A) Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005 and annually thereafter, the Secretary of Defense shall request from each institution of higher education that has students participating in a Senior Reserve Officer Training Corps program during the then-current academic year of that institution a certification that such institution, during the next academic year of the institution, will—

''(i) permit the Secretary of each military department to maintain a unit of the Senior Officer Training Corps (in accordance with subsection (a)) at that institution (or any subelement of that institution), should such Secretary elect to maintain such a unit; and

''(ii) if the Secretary of the military department concerned elects not to establish or maintain a unit of the Senior Reserve Officer Training Corps at that institution, permit a student of

that institution (or any subelement of that institution) to enroll in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

''(B) Any certification under subparagraph (A) shall be made by the president of the institution (or equivalent highest ranking administrative official) and shall be submitted to the Secretary of Defense no later than 90 days after receipt of the request from the Secretary.

''(C) In the case of any institution from which a certification is requested under subparagraph (A), if the Secretary of Defense does not receive a certification in accordance with subparagraph (B), or if the certification does not state that the university will comply with both clauses (i) and (ii) of subparagraph (A) during its next academic year, the Secretary shall make a determination under paragraph (1) as to whether the institution has a policy or practice described in that paragraph.''.

(b) EQUAL TREATMENT OF MILITARY RECRUITERS WITH OTHER RECRUITERS.—Subsection (b)(1) of such section is amended—

(1) by striking ''entry to campuses'' and inserting ''access to campuses''; and

(2) by inserting before the semicolon at the end the following: ''in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer''.

(c) PROHIBITION OF FUNDING FOR POST-SECONDARY SCHOOLS THAT PREVENT ROTC ACCESS OR MILITARY RECRUITING.—(1) Subsection (d) of such section is amended—

(A) in paragraph (1)—

(i) by striking ''limitation established in subsection (a) applies'' and inserting ''limitations established in subsections (a) and (b) apply'';

(ii) in subparagraph (B), by inserting ''for any department or agency for which regular appropriations are made'' after ''made available''; and

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

''(C) Any funds made available for the Department of Homeland Security.

''(D) Any funds made available for the National Nuclear Security Administration of the Department of Energy.

''(E) Any funds made available for the Department of Transportation.

''(F) Any funds made available for the Central Intelligence Agency.''; and

(B) by striking paragraph (2).

(2)(A) Subsection (b) of such section is amended by striking ''subsection (d)(2)'' and inserting ''subsection (d)(1)''.

(B) Subsection (e) of such section is amended by inserting '', to the head of each other department and agency the funds of which are subject to the determination,'' after ''Secretary of Education''.

(d) CODIFICATION AND EXTENSION OF EXCLUSION OF AMOUNTS TO COVER INDIVIDUAL PAYMENTS.—Subsection (d) of such section, as amended by subsection (c)(1), is further amended—

(1) by striking ''The'' after ''(1)'' and inserting ''Except as provided in paragraph (2), the''; and

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

''(2) Any Federal funding specified in paragraph (1) that is provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance, may be used for the purpose for which the funding is provided.''.

(e) CONFORMING AMENDMENTS.—Subsections (a) and (b) of such section are amended by striking ''(including a grant of funds to be available for student aid)''.

(f) CONFORMING REPEAL OF CODIFIED PROVISION.—Section 8120 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 10 U.S.C. 983 note), is repealed

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funds appropriated for fiscal year 2005 and thereafter.

SEC. 597. REPORTS ON TRANSFORMATION MILESTONES.

(a) MILITARY TO CIVILIAN CONVERSIONS.—Not later than January 31, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing information as to the number of positions in the Department of Defense converted during the previous fiscal year from performance by military personnel to performance by civilian personnel. The report shall include—

(1) a description of the skill set of the positions converted;

(2) specification of the total cost of such conversions and how that cost is being paid for; and

(3) the number of positions in the Department of Defense projected for such conversion during the period from March 1, 2005, to January 31, 2006.

(b) CIVILIAN SKILLS CORPS FEASIBILITY STUDY.—(1) The Secretary of Defense shall conduct an Armed Forces-wide study of how a system to embed certain civilian expertise skill sets within the military on a temporary basis could be implemented. The study shall include consideration of all skills sets in which, as determined by the Secretary of Defense, there is a significant shortfall within the Armed Forces or which are high value, but of uncertain need. The study shall examine the feasibility of implementing a personnel system that expands the capability of the Armed Forces to rapidly access civilian volunteers with needed expertise outside of the reserve components.

(2) The Secretary shall submit to the congressional defense committees a report on the results of the study under paragraph (1) not later than March 31, 2005.

(c) MILITARY-TO-MILITARY CONVERSIONS.—Not later than March 31 of each of 2005, 2006, and 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the milestones within the multiyear transformation for internal military-to-military transitions. Each such report shall include—

(1) the number of units and personnel transferred and retrained within the previous fiscal year and what their new unit designations are; and

(2) a description of the transformation goals for the upcoming fiscal year and whether the previous years goals were met and why or why not.

(d) TRANSFORMATION TO BRIGADE STRUCTURE FOR THE ARMY.—No later than March 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the internal transformation of the Army from a division-orientated system to a brigade-orientated one. Such a report shall be submitted for each year until the Secretary of the Army certifies to those committees that the transformation of the Army to brigade level units has been completed.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SECTION 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2005.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2005 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2005, the rates of monthly basic pay for members of the uniformed services are increased by 3.5 percent.

SEC. 602. AUTHORITY TO PROVIDE FAMILY SEPARATION BASIC ALLOWANCE FOR HOUSING.

Section 403(d) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking ''is entitled to'' and inserting ''may be paid''; and

(2) in paragraph (4), by striking the first sentence and inserting the following new sentence: ''A family separation basic allowance for housing paid to a member under this subsection is in addition to any other allowance or per diem that the member receives under this title.''

SEC. 603. GEOGRAPHIC BASIS FOR BASIC ALLOWANCE FOR HOUSING DURING SHORT CHANGES OF STATION FOR PROFESSIONAL MILITARY EDUCATION OR TRAINING.

Section 403(d)(3) of title 37, United States Code, is amended by adding at the end the following new subparagraph:

''(C) If the member is reassigned for a permanent change of station or permanent change of assignment from a duty station in the continental United States to another duty station in the continental United States for a period of not more than one year for the purpose of participating in professional military education or training classes, the Secretary concerned may base the amount of the basic allowance for housing for the member on the duty station to which the member is reassigned or the area in which the dependents reside, whichever the Secretary concerned determines to be most equitable.''.

SEC. 604. IMMEDIATE LUMP-SUM REIMBURSEMENT FOR UNUSUAL NONRECURRING EXPENSES INCURRED BY MEMBERS SERVING OUTSIDE CONTINENTAL UNITED STATES.

(a) ELIGIBILITY FOR REIMBURSEMENT.—Section 405 of title 37, United States Code, is amended by adding at the end the following new subsection:

''(d) LUMP-SUM REIMBURSEMENT FOR NONRECURRING EXPENSES.—In addition to providing a per diem under this section, the Secretary concerned may reimburse a member for actual expenses of a nonrecurring nature that the member incurs incident to serving on duty outside of the continental United States. The types of expenses for which reimbursement may be provided under this paragraph shall be limited to those expenses directly related to the conditions or location of the duty outside of the continental United States and either of a nature or a magnitude not normally incurred by members assigned to duty inside the continental United States. In determining the per diem to be paid under this section, the Secretary concerned shall not consider expenses for which reimbursement is provided under this paragraph.''.

(b) USE OF DEFINED TERM CONTINENTAL UNITED STATES.—(1) Subsection (a) of such section is amended by striking ''outside of the United States or in Hawaii or Alaska'' and inserting ''outside of the continental United States''.

(2) The heading of such section is amended to read as follows:

''§ 405. Travel and transportation allowances: per diem while on duty outside the continental United States''.

(3) The table of sections at the beginning of chapter 7 of such title is amended by striking the item relating to section 405 and inserting the following new item:

''405. Travel and transportation allowances: per diem while on duty outside the continental United States.''.

SEC. 605. INCOME REPLACEMENT PAYMENTS FOR RESERVES EXPERIENCING EXTENDED AND FREQUENT MOBILIZATION FOR ACTIVE DUTY SERVICE.

(a) IN GENERAL.—(1) Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

''§ 910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

''(a) PAYMENT REQUIRED.—The Secretary concerned shall pay to an eligible member of a reserve component of the armed forces an amount

equal to the monthly active-duty income differential of the member, as determined by the Secretary. The payments shall be made on a monthly basis.

''(b) ELIGIBILITY.—Subject to subsection (c), a reserve component member is entitled to a payment under this section for any full month of active duty of the member, while on active duty under an involuntary mobilization order, following the date on which the member—

''(1) completes 12 continuous months of service on active duty under such an order;

''(2) completes 18 months on active duty during the previous 60 months under such an order; or

''(3) is involuntarily mobilized for service on active duty six months or less following the member's separation from the member's previous period of active duty.

''(c) MINIMUM AND MAXIMUM PAYMENT AMOUNTS.—(1) A payment under this section shall be made to a member for a month only if the amount of the monthly active-duty income differential for the month is greater than $50.

''(2) Notwithstanding the amount determined under subsection (d) for a member for a month, the monthly payment to a member under this section may not exceed $3,000.

''(d) MONTHLY ACTIVE-DUTY INCOME DIFFERENTIAL.—For purposes of this section, the monthly active-duty income differential of a member is the difference between—

''(1) the average monthly civilian income of the member; and

''(2) the member's total monthly military compensation.

''(e) DEFINITIONS.—In this section:

''(1) The term 'average monthly civilian income', with respect to a member of a reserve component, means the amount, determined by the Secretary concerned, of the earned income of the member for either the 12 months preceding the member's mobilization or the 12 months covered by the member's most recent Federal income tax filing, divided by 12.

''(2) The term 'total monthly military compensation' means the amount, computed on a monthly basis, of the sum of—

''(A) the amount of the regular military compensation (RMC) of the member; and

''(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis.''.

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

''910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service.''.

(b) EFFECTIVE DATE.—Section 910 of title 37, United States Code, as added by subsection (a), shall apply for months after December 2004.

SEC. 606. AUTHORITY FOR CERTAIN MEMBERS DEPLOYED IN COMBAT ZONES TO RECEIVE LIMITED ADVANCES ON THEIR FUTURE BASIC PAY.

(a) ADVANCEMENT OF BASIC PAY.—(1) Chapter 3 of title 37, United States Code, is amended by adding at the end the following new section:

''§ 212. Advancement of basic pay: members deployed in combat zones for more than one year

''(a) ELIGIBILITY; AMOUNT ADVANCED.—(1) If a member of the armed forces is assigned to duty in an area for which special pay under section 310 of this title is available and the assignment is pursuant to orders specifying an assignment of one year or more (or the assignment is otherwise extended beyond one year), the member may request, during the period of the assignment, the advanced payment of not more than three months of the basic pay of the member.

''(2) A request by a member described in paragraph (1) for the advanced payment of a single month of basic pay shall be granted. The Secretary concerned may grant a request for a second or third month of advanced basic pay during the assignment for the member upon a showing of financial hardship.

''(b) RECOUPMENT OF ADVANCED PAY.—The Secretary concerned shall recoup an advance made on the basic pay of a member under this section in equal installments over a one-year period beginning as provided in subsection (c). If the member is serving on active duty for any month during the recoupment period, the amount of the installment for the month shall be deducted from the basic pay of the member for that month. The estate of a deceased member shall not be required to repay an advance made to the member under this section.

''(c) COMMENCEMENT OF RECOUPMENT.—(1) Except as provided in paragraph (2), the recoupment of basic pay advanced to a member under this section shall commence beginning with the first month that begins after the end of the assignment of the member to duty in an area for which special pay under section 310 of this title is available

''(2) A member of a reserve component who receives an advancement of basic pay under this section shall commence repayment of the advance beginning with the first month that begins after the the advanced pay is received.''.

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

''212. Advancement of basic pay: members deployed in combat zones for more than one year.''.

(b) EFFECTIVE DATE.—Section 212 of title 37, United States Code, as added by subsection (a), shall take effect October 1, 2004.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF BONUS AND SPECIAL PAY AUTHORITIES.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking ''January 1, 2005'' and inserting ''January 1, 2006''.

(c) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(d) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(e) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(g) ACCESSION BONUS FOR PHARMACY OFFICERS.—Section 302j(a) of such title is amended by striking ''the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and ending on September 30, 2004'' and inserting ''October 30, 2000, and ending on December 31, 2005''.

(h) REENLISTMENT BONUS FOR ACTIVE AND RESERVE MEMBERS.—Section 308(g) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(i) ENLISTMENT BONUS FOR ACTIVE AND RESERVE MEMBERS.—Section 309(e) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(j) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(k) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(l) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(m) RETENTION BONUS FOR MEMBERS WHO HAVE CRITICAL MILITARY SKILLS OR MEET OTHER CRITERIA.—Section 323(i) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(n) ACCESSION OR AFFILIATION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

SEC. 612. REDUCTION IN REQUIRED SERVICE COMMITMENT TO RECEIVE ACCESSION BONUS FOR REGISTERED NURSES.

(a) REDUCTION.—Section 302d(a)(1) of title 37, United States Code, is amended by striking ''four years'' and inserting ''three years''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2004, and apply with respect to written agreements referred to in section 302d(a)(1) of title 37, United States Code, entered into on or after that date.

SEC. 613. INCREASE IN MAXIMUM MONTHLY RATE AUTHORIZED FOR HARDSHIP DUTY PAY.

(a) INCREASE.—Section 305(a) of title 37, United States Code, is amended by striking ''$300'' and inserting ''$750''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2004.

SEC. 614. TERMINATION OF ASSIGNMENT INCENTIVE PAY FOR MEMBERS PLACED ON TERMINAL LEAVE.

(a) TERMINATION.—Subsection (e) of section 307a of title 37, United States Code, is amended to read as follows:

''(e) STATUS NOT AFFECTED BY TEMPORARY DUTY OR LEAVE.—The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in the assignment by reason of—

''(1) the performance by the member of temporary duty pursuant to orders; or

''(2) the absence of the member for authorized leave, unless the member is placed on terminal leave and will not be returning to the assignment.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements under section 307a(b) of title 37, United States Code, entered into on or after the date of the enactment of this Act.

SEC. 615. CONSOLIDATION OF REENLISTMENT AND ENLISTMENT BONUS AUTHORITIES FOR REGULAR AND RESERVE COMPONENTS.

(a) CONSOLIDATED REENLISTMENT BONUS AUTHORITY; ELIGIBILITY CRITERIA.—(1) Paragraph (1) of subsection (a) of section 308 of title 37, United States Code, is amended—

(A) by striking the matter preceding subparagraph (A) and inserting ''The Secretary concerned may pay a bonus under paragraph (2) to a member of the armed forces serving in a regular component or reserve component of the armed force if the member—'';

(B) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) has completed at least 17 months of service in a regular or reserve component of the armed forces, but not more than 18 years of total military service;''; and

(C) by striking subparagraph (D) and all that follows through the period at the end of such paragraph and inserting the following:

''(D) reenlists or voluntarily extends the member's enlistment for a period of at least three

years in a regular component or reserve component of the armed forces.''.

(2) Paragraph (3) of such subsection is amended by striking ''16 years'' and inserting ''20 years''.

(3) Paragraph (5) of such subsection is amended to read as follows:

''(5) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may waive all or part of the eligibility requirements specified in paragraph (1) in time of war or national emergency.''.

(4) Subsection (b) of such section is amended—

(A) by inserting ''(1)'' after ''(b)''; and

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

''(2) Notwithstanding the schedule established for making partial bonus payments under paragraph (1), a member of a reserve component entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.''.

(5) Subsection (g) of such section is amended by striking ''an active-duty reenlistment'' and inserting ''a reenlistment''.

(b) CONSOLIDATED ENLISTMENT BONUS AUTHORITY.—Section 309(a) of such title is amended—

(1) by striking the first sentence and inserting the following: ''(1) The Secretary concerned may pay a bonus this section to a person who enlists in a regular component or reserve component of the armed forces for a period of at least two years.''; and

(2) by inserting after the first sentence, as so amended, the following new paragraph:

''(2) The amount of a bonus under this section may not exceed $20,000.''.

(c) REPEAL OF SEPARATE REENLISTMENT AND ENLISTMENT BONUS AUTHORITY FOR RESERVE COMPONENTS.—(1) Sections 308b, 308c, 308g, 308h, and 308i of such title are repealed.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the items relating to sections 308b, 308c, 308h, and 308i.

(d) EFFECTIVE DATE.—(1) Except as provided by paragraphs (2) and (3), the amendments made by this section shall take effect October 1, 2004, and the amendments made by subsections (a) and (b) shall apply to reenlistments, the voluntary extension of enlistments, and enlistments referred to in section 308(a)(1) or 309(a) of title 37, United States Code, entered into on or after that date.

(2) The amendments made by subsection (c) shall take effect December 31, 2004, except that the repeal of section 308g of title 37, United States Code, shall take effect on the date of the enactment of this Act.

(3) In the case of a member of the Armed Forces who, on or before December 31, 2004, reenlisted, voluntarily extended the enlistment of the member, or enlisted in a reserve component of the Armed Forces, section 308b, 308c, 308h, or 308i of title 37, United States Code, whichever applies to the member, and as in effect on December 31, 2004, shall continue to apply with respect to the payment of a bonus under such section to the member.

(e) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under sections 308 and 309 of title 37, United States Code, to provide reenlistment and enlistment bonuses to members of the uniformed services using the expanded authority provided by the amendments made by subsections (a) and (b) may not exceed $20,000,000. The bonus authority available under such sections shall not be considered to be an expanded authority to the extent that the authority was available under a provision of law specified in subsection (c), before the repeal of the provision by such subsection.

SEC. 616. REVISION OF AUTHORITY TO PROVIDE FOREIGN LANGUAGE PROFICIENCY PAY.

(a) IN GENERAL.—(1) Section 316 of title 37, United States Code, is amended to read as follows:

''§316. Special pay: bonus for members with foreign language proficiency

''(a) BONUS AUTHORIZED.—The Secretary concerned may pay an annual bonus under this section to a member of the uniformed services who—

''(1) is qualified in a uniformed services specialty requiring proficiency in a foreign language identified by the Secretary concerned as a foreign language in which it is necessary to have personnel proficient because of national defense or public health considerations;

''(2) received training, under regulations prescribed by the Secretary concerned, designed to develop a proficiency in such a foreign language;

''(3) is assigned to duties requiring a proficiency in such a foreign language; or

''(4) is proficient in a foreign language for which the uniformed service may have a critical need, as determined by the Secretary concerned.

''(b) CERTIFICATION OF PROFICIENCY.—Except as provided in subsection (e), for a member described in subsection (a) to be eligible to receive or retain a bonus under this section, the Secretary concerned shall certify the member as being proficient in the foreign language for which bonus is offered.

''(c) DURATION OF CERTIFICATION.—Except as provided in subsection (e), the certification of a member as being proficient in a foreign language for purposes of receipt of a bonus under this section shall expire at the end of the 12-month period beginning on the first day of the first month beginning on or after the certification date.

''(d) BONUS AMOUNT; PAYMENT METHOD.—The maximum amount of the bonus paid under this section to a member may not exceed $12,000 for the 12-month period covered by the certification of the member. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments.

''(e) CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.—(1) The Secretary concerned may waive the certification requirement under subsection (b) and pay a bonus under this section to a member described in subsection (a) who was previously certified in a foreign language, but whose certification expired under subsection (c), if—

''(A) the member is assigned to duty in connection with a contingency operation; and

''(B) the Secretary concerned determines that the member is unable to schedule or complete the certification required by subsection (b) because of that assignment.

''(2) For purposes of determining the amount of a bonus to be paid to a member under the authority of this subsection, the Secretary concerned shall treat the date on which the member was assigned to duty in connection with the contingency operation as equivalent to a certification date. In the case of a member whose certification expires during such duty assignment, the Secretary shall commence the next 12-month period effective as of the date on which the prior certification period expired.

''(3) A member who receives a bonus under the authority of this subsection shall complete the certification required by subsection (b) for the foreign language for which the bonus was paid not later than the end of the 180-day period beginning on the date on which the member is released from the assignment in connection with the contingency operation. The Secretary concerned may extend that period for a member in accordance with regulations prescribed under subsection (h). If the member fails to obtain the required certification before the end of the authorized period, the Secretary concerned may require the member to repay all or a portion of the bonus, in the manner provided in subsection (g).

''(f) RELATIONSHIP TO OTHER PAY OR ALLOWANCE.—A bonus under this section is in addition to any other pay or allowance payable to a member under any other provision of law.

''(g) REPAYMENT OF BONUS.—(1) The Secretary concerned may require a member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in subsection (a) for the entire certification period, to repay to the United States an amount which bears the same ratio to the total amount of the bonus paid to the member as the unsatisfied portion of the certification period bears to the entire certification period.

''(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered for the member less than five years after the expiration of the certification period does not discharge the member from a debt arising under this paragraph. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.

''(h) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary, by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration.''.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 316 and inserting the following new item:

''316. Special pay: bonus for members with foreign language proficiency.''.

(b) CONFORMING AMENDMENTS.—(1) Section 316a of title 37, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 316a.

SEC. 617. ELIGIBILITY OF RESERVE COMPONENT MEMBERS FOR CRITICAL SKILLS RETENTION BONUS AND EXPANSION OF AUTHORITY TO PROVIDE BONUS.

(a) INCLUSION OF RESERVE COMPONENT MEMBERS.—Section 323 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''who is serving on active duty and'' by inserting ''who is serving on active duty in a regular component or in an active status in a reserve component and who''; and

(B) in paragraph (1), by inserting '', or remain in an active status in a reserve component,'' after ''remain on active duty'';

(2) in subsection (e)(2), by inserting ''or service in a reserve component'' after ''period of active duty''; and

(3) in subsection (g), by striking ''active duty'' and inserting ''service''.

(b) INCLUSION OF MEMBERS SERVING PURSUANT TO INDEFINITE REENLISTMENT.—Subsection (a) of such section is further amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting ''other than an enlisted member referred to in paragraph (3),'' after ''enlisted member,''; and

(B) by striking the period at the end and inserting ''; or''; and

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

''(3) in the case of an enlisted member serving pursuant to an indefinite reenlistment, the member executes a written agreement to remain on active duty, or remain in an active status in a reserve component, for a period of at least one year.''.

(c) ADDITIONAL CRITERIA FOR BONUS.—Such section is further amended—

(1) in subsection (a), by striking ''designated critical military skill'' and inserting ''critical military skill designated under subsection (b) or satisfies such other criteria for the bonus established under such subsection'';

(2) in subsection (b)—

(A) by striking ''DESIGNATION OF CRITICAL SKILLS.—'' and inserting ''BASIS FOR BONUS.—(1)''; and

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

''(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may establish such other criteria as the Secretary considers appropriate under which a retention bonus will be provided to an officer or enlisted member of the armed forces under subsection (a).''; and

(3) in subsection (h)(1), by striking ''qualified in the critical military skills for which the bonuses were offered'' and inserting ''who were offered the bonuses''.

(d) REPEAL OF SEPARATE SPECIAL AND INCENTIVE PAY AUTHORITIES FOR RESERVE COMPONENTS.—(1) Sections 302g, 308d, and 308e of such title are repealed.

(2) In the case of a member of the Armed Forces who, on or before December 31, 2004, entered into a written agreement under section 302g or 308e of title 37, United States Code, such section 302g or 308e, whichever applies to the member, and as in effect on December 31, 2004, shall continue to apply after that date with respect to the payment of special pay under such section to the member during the term of the agreement.

(e) CLERICAL AMENDMENTS.—(1) The heading of section 323 of such title is amended to read as follows:

''§ 323 Special pay: retention incentives for members qualified in a critical military skill or who satisfy other eligibility criteria''.

(2) The table of sections at the beginning of chapter 5 of such title is amended—

(A) by striking the items relating to sections 302g, 308d, and 308e; and

(B) by striking the item relating to section 323 and inserting the following new item:

''323. Special pay: retention incentives for members qualified in a critical military skill or who satisfy other eligibility criteria.''.

(f) EFFECTIVE DATE.—(1) Except as provided by paragraph (2), the amendments made by this section shall take effect October 1, 2004, and the amendments made by subsections (a), (b), and (c) shall apply to agreements, reenlistments, and the voluntary extension of enlistments referred to in section 323(a) of title 37, United States Code, entered into on or after that date.

(2) The amendments made by subsections (d)(1) and (e)(2)(A) shall take effect December 31, 2004.

(g) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 323 of title 37, United States Code, to provide retention bonuses to members of the uniformed services using the expanded authority provided by the amendments made by subsections (a), (b), and (c) may not exceed $10,000,000. The bonus authority available under such section shall not be considered to be an expanded authority to the extent that the authority was available under a provision of law specified in subsection (d), before the repeal of the provision by such subsection.

SEC. 618. ELIGIBILITY OF NEW RESERVE COMPONENT OFFICERS FOR ACCESSION OR AFFILIATION BONUS FOR OFFICERS IN CRITICAL SKILLS.

(a) ELIGIBILITY.—Subsection (a) of section 324 of title 37, United States Code, is amended to read as follows:

''(a) BONUS AUTHORIZED.—(1) The Secretary concerned may pay a bonus under this section—

''(A) to a person who executes a written agreement to accept a commission or an appointment as an officer of armed forces and serve on active duty in a designated critical officer skill or serve in a reserve component of an armed force in a designated critical officer skill; or

''(B) to an officer of an armed force, including a warrant officer, but excluding an officer who has previously served in the Selected Reserve or an officer who is entitled to retired pay, who executes a written agreement to serve in a reserve component of an armed force in a designated critical officer skill after being discharged or released from active duty under honorable conditions, once the officer affiliates with a unit or position in the reserve component.

''(2) The written agreement under paragraph (1) between the Secretary concerned and a person or officer shall specify the period during which the person or officer will be required to serve in a designated critical officer skill to maintain entitlement to the bonus payment.''.

(b) AMOUNT OF BONUS.—Subsection (c) of such section is amended to read as follows:

''(c) AMOUNT OF BONUS.—The Secretary concerned shall determine the amount of a bonus to be paid under subsection (a), except that a person may not receive a total of more than $60,000 in payments under this section''.

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (d), by striking ''accession'' both places it appears;

(2) in subsection (e)—

(A) in the subsection heading, by striking ''ACCESSION''; and

(B) by striking ''an accession bonus'' and inserting ''a bonus''; and

(3) in subsection (f), by striking ''active duty'' and ''accession'' each place it appears.

(d) CLERICAL AMENDMENTS.—(1) The heading of section 324 of such title is amended to read as follows:

''§ 324. Special pay: accession or affiliation bonus for officers in designated critical skills''.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 324 and inserting the following new item:

''324. Special pay: accession or affiliation bonus for officers in designated critical skills.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2004, and apply to agreements referred to in section 324(a) of title 37, United States Code entered into on or after that date.

(f) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 324 of title 37, United States Code, as amended by subsections (a) and (b), to provide accession and affilliation bonuses to members of the Armed Forces not previously eligible for such a bonus under such section may not exceed $5,000,000.

SEC. 619. ELIGIBILITY OF RESERVE COMPONENT MEMBERS FOR INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGE.

(a) ELIGIBILITY.—Section 326 of title 37, United States Code, is amended—

(1) in subsection (a), by inserting ''of a regular or reserve component'' after ''an eligible member'';

(2) in subsection (b)—

(A) by striking ''if—'' and all that follows through ''at the time'' and inserting ''if, at the time''; and

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(3) in subsection (c)(2), by inserting ''regular or reserve component of the'' after ''chief personnel officer of the''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2004, and apply to agreements referred to in section 326(a) of title 37, United States Code, entered into on or after that date.

(c) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 326 of title 37, United States Code, as amended by subsection (a), to provide incentive bonuses to members of a reserve component of the Armed Forces may not exceed $3,000,000.

SEC. 620. AVAILABILITY OF HAZARDOUS DUTY INCENTIVE PAY FOR MILITARY FIREFIGHTERS.

(a) ADDITIONAL TYPE OF DUTY ENTITLED TO PAY.—Subsection (a) of section 301 of title 37, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following new paragraph:

''(13) involving regular participating as a firefighting crew member, as determined by the Secretary concerned; or''.''.

(b) MONTHLY AMOUNT OF PAY.—Subsection (c) of such section is amended—

(1) in paragraph (1), by striking ''(12)'' and inserting ''(13)''; and

(2) in paragraph (2)(A), by striking ''(13)'' and inserting ''(14)''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall take effect October 1, 2004.

Subtitle C—Travel and Transportation Allowances

SEC. 631. EXPANSION OF TRAVEL AND TRANSPORTATION ALLOWANCES TO ASSIST SURVIVORS OF A DECEASED MEMBER TO ATTEND BURIAL CEREMONY OF THE MEMBER.

(a) AUTHORIZED TRAVEL LOCATIONS.—Subsection (b) of section 411f of title 37, United States Code, is amended to read as follows:

''(b) AUTHORIZED LOCATIONS FOR TRAVEL; DURATION AND RATES.—(1) The allowances under subsection (a) may be provided for travel and transportation by eligible relatives of the deceased member to the place selected pursuant to section 1482(a)(8) of title 10 for disposition of the remains of the deceased member.

''(2) The allowances may not exceed the rates for two days and the time necessary for the travel.''.

(b) ELIGIBLE RELATIVES.—Subsection (c)(1)(C) of such section is amended by striking ''If no person described in subparagraph (A) or (B) is provided travel and transportation allowances under subsection (a)(1), the'' and inserting ''The''.

(c) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 411f of title 37, United States Code, as amended by subsections (a) and (b), to provide travel and transportation allowances, not previously available under such section, to survivors of deceased members of the uniformed services, and to provide such allowances to persons not previously eligible for such allowances, may not exceed $2,000,000.

SEC. 632. TRANSPORTATION OF FAMILY MEMBERS INCIDENT TO THE SERIOUS ILLNESS OR INJURY OF MEMBERS OF THE UNIFORMED SERVICES.

(a) REMOVAL OF LIMITATION ON NUMBER OF FAMILY MEMBERS.—Subsection (a)(1) of section 411h of title 37, United States Code, is amended by striking ''not more than two family members'' and inserting ''a family member''.

(b) FAMILY MEMBERS DESCRIBED.—Subsection (b)(1) of such section is amended—

(1) by striking ''and'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

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

''(E) other persons approved by the Secretary concerned.''.

(c) AVAILABILITY OF PER DIEM.—Such section is further amended—

(1) in subsection (a)(1), by inserting ''travel and'' before ''transportation''; and

(2) in subsection (c)—

(A) by inserting ''(1)'' after ''(c)'' ; and

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

''(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established under section 404(d) of this title.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004, and apply to transportation described in section 411h of title 37, United States Code, provided on or after that date.

(e) LIMITATION ON FISCAL YEAR 2005 OBLIGATIONS.—During fiscal year 2005, obligations incurred under section 411h of title 37, United States Code, as amended by subsections (a) and (b), to provide travel and transportation allowances, not previously available under such section, to family members of seriously ill or injured members of the uniformed services, and to provide such allowances to persons not previously eligible for such allowances, may not exceed $3,000,000.

SEC. 633. REIMBURSEMENT OF MEMBERS FOR CERTAIN LODGING COSTS INCURRED IN CONNECTION WITH STUDENT DEPENDENT TRAVEL.

Section 430(b) of title 37, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2) The transportation allowance paid to a member under paragraph (1) may include reimbursement, at a rate prescribed by the Secretaries concerned, for lodging costs incurred during the annual trip for which the allowance is paid when, for reasons beyond the control of the dependent child of the member, the child is required to procure accommodations while en route between the child's school and the member's duty station.''.

Subtitle D—Retired Pay and Survivor Benefits

SEC. 641. COMPUTATION OF BENEFITS UNDER SURVIVOR BENEFIT PLAN FOR SURVIVING SPOUSES OVER AGE 62.

(a) PHASED INCREASE IN BASIC ANNUITY.—

(1) STANDARD ANNUITY.—

(A) INCREASE TO 55 PERCENT.—Clause (i) of subsection (a)(1)(B) of section 1451 of title 10, United States Code, is amended by striking ''35 percent of the base amount.'' and inserting ''the product of the base amount and the percent applicable to the month, as follows:

''(I) For a month before October 2005, the applicable percent is 35 percent.

''(II) For months after September 2005 and before April 2006, the applicable percent is 40 percent.

''(III) For months after March 2006 and before April 2007, the applicable percent is 45 percent.

''(IV) For months after March 2007 and before April 2008, the applicable percent is 50 percent.

''(V) For months after March 2008, the applicable percent is 55 percent.''.

(B) COORDINATION WITH SAVINGS PROVISION UNDER PRIOR LAW.—Clause (ii) of such subsection is amended by striking '', at the time the beneficiary becomes entitled to the annuity,''.

(2) RESERVE-COMPONENT ANNUITY.—Subsection (a)(2)(B)(i)(I) of such section is amended by striking ''35 percent'' and inserting ''the percent specified under subsection (a)(1)(B)(i) as being applicable for the month''.

(3) SURVIVORS OF ELIGIBLE PERSONS DYING ON ACTIVE DUTY, ETC.—

(A) INCREASE TO 55 PERCENT.—Clause (i) of subsection (c)(1)(B) of such section is amended—

(i) by striking ''35 percent'' and inserting ''the applicable percent''; and

(ii) by adding at the end the following: ''The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for that month.''.

(B) COORDINATION WITH SAVINGS PROVISION UNDER PRIOR LAW.—Clause (ii) of such subsection is amended by striking '', at the time the beneficiary becomes entitled to the annuity,''.

(4) CLERICAL AMENDMENT.—The heading for subsection (d)(2)(A) of such section is amended to read as follows: ''COMPUTATION OF ANNUITY.—''.

(b) CORRESPONDING PHASED ELIMINATION OF SUPPLEMENTAL ANNUITY.—

(1) PHASED REDUCTION OF SUPPLEMENTAL ANNUITY.—Section 1457(b) of title 10, United States Code, is amended—

(A) by striking ''5, 10, 15, or 20 percent'' and inserting ''the applicable percent''; and

(B) by inserting after the first sentence the following: ''The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months before October 2005, 15 percent for months after September 2005 and before April 2006, 10 percent for months after March 2006 and before April 2007, and 5 percent for months after March 2007 and before April 2008.''.

(2) REPEAL UPON IMPLEMENTATION OF 55 PERCENT SBP ANNUITY.—Effective on April 1, 2008, chapter 73 of such title is amended—

(A) by striking subchapter III; and

(B) by striking the item relating to subchapter III in the table of subchapters at the beginning of that chapter.

(c) RECOMPUTATION OF ANNUITIES.—

(1) PERIODIC RECOMPUTATION REQUIRED.—Effective on the first day of each month specified in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) TIME FOR RECOMPUTATION.—The requirement under paragraph (1) for recomputation of certain annuities applies with respect to the following months:

(A) October 2005.

(B) April 2006.

(C) April 2007.

(D) April 2008.

(d) RECOMPUTATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

SEC. 642. OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2005.

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to—

(1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under subsection (b) of this section, and under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing,

signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the two-year period beginning on October 1, 2005.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(i) ADDITIONAL PREMIUM.—The Secretary of Defense may require that the premium for a person making an election under subsection (a)(1) or (b) include, in addition to the amount required under section 1452(a) of title 10, United States Code, an amount determined under regulations prescribed by the Secretary of Defense for the purposes of this subsection. Any such amount shall be stated as a percentage of the base amount of the person making the election and shall reflect the number of years that have elapsed since the person retired, but may not exceed 4.5 percent of that person's base amount.

(j) REPORT CONCERNING OPEN SEASON.—Not later than July 1, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the open season authorized by this section for the Survivor Benefit Plan. The report shall include the following:

(1) A description of the Secretary's plans for implementation of the open season.

(2) The Secretary's estimates of the costs associated with the open season, including any anticipated effect of the open season on the actuarial status of the Department of Defense Military Retirement Fund.

(3) Any recommendation by the Secretary for further legislative action.

SEC. 643. SOURCE OF FUNDS FOR SURVIVOR BENEFIT PLAN ANNUITIES FOR DEPARTMENT OF DEFENSE BENEFICIARIES OVER AGE 62.

(a) IN GENERAL.—Chapter 74 of title 10, United States Code, is amended as follows:

(1) Section 1465(b) of such title is amended by adding at the end the following new paragraph:

''(4) At the same time that the Secretary of Defense makes the determination required by paragraph (1) for any fiscal year, the Secretary shall determine the amount of the Treasury contribution to be made to the Fund for the next fiscal year under section 1466(b)(2)(E) of this title. That amount shall be determined in the same manner as the determination under paragraph (1) of the total amount of Department of Defense contributions to be made to the Fund during that fiscal year under section 1466(a) of this title, except that for purposes of this paragraph the Secretary, in making the calculations required by subparagraphs (A) and (B) of that paragraph, shall use the single level percentages determined under subsection (c)(5), rather than those determined under subsection (c)(1).''.

(4) Section 1465(c) of such title is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting before the semicolon at the end the following: ''and as if benefits under subchpater II of chapter 73 of this title for beneficiaries 62 years of age and older were computed for any fiscal year on the basis of the percentage of 35 percent, rather than any percentage otherwise applicable for that computation for that fiscal year''; and

(ii) in subparagraph (B), by inserting before the period at the end the following: ''and as if benefits under subchapter II of chapter 73 of this title for beneficiaries 62 years of age and older were computed for any fiscal year on the basis of the percentage of 35 percent, rather than any percentage otherwise applicable for that computation for that fiscal year'';

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph (5):

''(5) Whenever the Secretary carries out an actuarial valuation under paragraph (1), the Secretary shall include as part of such valuation the following:

''(A) A determination of a single level percentage determined in the same manner as applies under subparagraph (A) of paragraph (1), but determined as if benefits under subchapter II of chapter 73 of this title for beneficiaries 62 years of age and older were computed for any fiscal year on the basis of the percentage of 35 percent, rather than any percentage otherwise applicable for that computation for that fiscal year.

''(B) A determination of a single level percentage determined in the same manner as applies under subparagraph (B) of paragraph (1), but determined as if benefits under subchapter II of chapter 73 of this title for beneficiaries 62 years of age and older were computed for any fiscal year on the basis of the percentage of 35 percent, rather than any percentage otherwise applicable for that computation for that fiscal year.

Such single level percentages shall be used for the purposes of subsection (b)(4).''.

(5) Section 1466(b) of such title is amended—

(A) in paragraph (1), by inserting ''1465(b)(4),'' after ''1465(b)(3),''; and

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

''(E) The amount for that year determined by the Secretary of Defense under section 1465(b)(4) of this title for the cost to the Fund arising from increased amounts payable from the Fund by reason of benefits under subchapter II of chapter 73 of this title for beneficiaries 62 years of age and older being computed for any fiscal year on the basis of the percentage greater than 35 percent.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of October 1, 2004. If this Act is enacted after that date, the Secretary of Defense shall provide for such administrative adjustments as necessary to provide for payments made for any period during fiscal year 2005 before the date of the enactment of this Act to be treated as having been made in accordance with such amendments and for the provisions of those amendments to be implemented as if enacted as of September 30, 2004.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

SEC. 651. CONSOLIDATION AND REORGANIZATION OF LEGISLATIVE PROVISIONS REGARDING DEFENSE COMMISSARY SYSTEM AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES.

(a) PROVISIONS RELATED TO COMMISSARY STORES.—Chapter 147 of title 10, United States Code, is amended—

(1) by striking the table of sections at the beginning of the chapter and sections 2481, 2483, 2485, and 2487;

(2) by redesignating sections 2482, 2484, and 2486 as sections 2485, 2483 and 2484, respectively;

(3) by inserting after the chapter heading the following:

''Subchapter	*Sec.*
''I. Defense Commissary System	*2481*
''II. Relationship, Continuation, and Common Policies of Defense Commissary and Exchange Systems	*2487*
''III. Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities	*2491*

''SUBCHAPTER I—DEFENSE COMMISSARY SYSTEM

''Sec.
''2481. Existence and purpose of defense commissary system.
''2482. Commissary stores: criteria for establishment or closure; store size.
''2483. Commissary stores: use of appropriated funds to cover operating expenses.
''2484. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.
''2485. Commissary stores: operation.

''§ 2481. Existence and purpose of defense commissary system

''(a) EXISTENCE OF SYSTEM.—The Secretary of the Defense shall operate, using funds appropriated to the Department of Defense, a worldwide system of commissary stores that sell, at reduced prices, food and other merchandise consistent with societal norms for product selection in commercial large-scale grocery stores in the United States to members of the uniformed services on active duty, members of the uniformed services entitled to retired pay, dependents of such members, and patrons authorized to use the system under chapter 54 of this title.

''(b) PURPOSE OF SYSTEM.—The purpose of the defense commissary system is to enhance the quality of life of members of the uniformed services, retired members, dependents of such members, and other authorized patrons and to provide such members with an additional nonmonetary compensation in recognition of their service to the United States.

''(c) REDUCED PRICES DEFINED.—In this section, the term 'reduced prices' means prices for food and other merchandise determined using the price setting process specified in section 2484 of this title.

''§ 2482. Commissary stores: criteria for establishment or closure; store size

''(a) PRIMARY CONSIDERATION FOR ESTABLISHMENT.—The needs of members of the uniformed services on active duty and their dependents shall be the primary consideration whenever the Secretary of Defense—

''(1) assesses the need to establish a commissary store; and

''(2) selects the actual location for the store.

''(b) STORE SIZE.—In determining the size of a commissary store, the Secretary of Defense shall take into consideration the number of all authorized patrons of the defense commissary system who are likely to use the store.

''(c) CLOSURE CONSIDERATIONS.—(1) Whenever assessing whether to close a commissary store, the effect of the closure on the quality of life of members of the uniformed services and their dependents using the store and on the welfare and

security of the military community in which the commissary is located shall be the primary consideration. In all cases, the quality of life for military patrons shall take priority over any consideration of economic criteria relative to store financial performance.

''(2) The Secretary of Defense shall give the quality of life for members of a reserve component the same priority as the quality of life for active duty members whenever assessing whether to close a commissary store, including when the assessment is undertaken as a result of the closure or realignment of a military installation under a base closure law.

''(d) CONGRESSIONAL NOTIFICATION.—The closure of a commissary store shall not take effect until the end of the 90-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the reasons supporting the closure. The written notice shall include an assessment of the impact closure will have on the quality of life for military patrons and the welfare and security of the military community in which the commissary is located.'';

(4) by inserting sections 2483 and 2484, as redesignated by paragraph (2), after section 2482, as added by paragraph (3);

(5) in section 2484, as redesignated by paragraph (2)—

(A) by striking subsections (a), (b), (c), and (g);

(B) by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h), respectively;

(C) by inserting before subsection (f), as so redesignated, the following new subsections:

''(a) IN GENERAL.—As provided in section 2481(a) of this title, commissary stores are intended to be similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores. The Secretary of Defense shall ensure that the design and format of commissary stores are consistent with modern grocery store stockage and format.

''(b) REQUIRED COMMISSARY MERCHANDISE CATEGORIES.—Merchandise sold in, at, or by commissary stores shall include items in the following categories:

''(1) Meat, poultry, and seafood.

''(2) Nonalcoholic beverages.

''(3) Produce.

''(4) Grocery food, whether stored chilled, frozen, or at room temperature.

''(5) Dairy products.

''(6) Bakery and delicatessen items.

''(7) Nonfood grocery items.

''(8) Health and beauty aids.

''(9) Magazines and periodicals.

''(10) Telephone cards, greeting cards, and film and one-time use cameras.

''(c) INCLUSION OF GENERAL MERCHANDISE ITEMS.—(1) Among the various defense retail systems—

''(A) commissary stores shall be the primary Department of Defense-operated store for the sale of items described in paragraphs (1) through (7) of subsection (b); and

''(B) exchange stores shall continue to maintain the exclusive right to operate convenience stores, shopettes, and troop stores, including such stores established to support contingency operations.

''(2) Merchandise sold in commissary stores may include such general merchandise items as the Secretary of Defense may prescribe, except that the Secretary may not exclude seasonal items, tobacco products, pet supplies, batteries, potted plants and floral bouquets, women's hosiery, and school supplies, to the extent such products have been available in commissary stores before June 1, 2004, unless the Secretary determines that space or other considerations preclude the sale of all or some of the specified items. The Secretary shall provide notice to Congress of any reduction in the availability of such items at least 30 days before the reduction takes effect.

''(3) A military exchange may be considered as the vendor for the purchase of tobacco products, greeting cards, and film and one-time use cameras and shall serve as the vendor for telephone cards. Subsections (e) and (f) shall not apply to the pricing of such an item when a military exchange serves as the vendor of the item. Commissary store and exchange prices shall be comparable for such an item.

''(4) During the two-year period ending March 31, 2007, the Secretary shall maintain sales data for commissary stores and exchange stores regarding the items identified in subsection (b)(10). Not later than August 1, 2007, the Secretary shall submit to Congress a report containing such sales data.

''(d) EXCLUDED GOODS OR SERVICES.—Commissary stores shall not offer film development services.

''(e) UNIFORM SALES PRICE SURCHARGE.—The Secretary of Defense shall apply a uniform surcharge equal to not more than five percent on the sales prices established under subsection (f) for each item of merchandise sold in, at, or by commissary stores.'';

(D) in subsection (f), as so redesignated, by striking ''(consistent with this section and section 2685 of this title)'' in paragraph (1);

(E) in subsection (h), as so redesignated, by striking ''Subsections (c) and (d)'' and inserting ''Subsections (e) and (f)''; and

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

''(i) USE OF SURCHARGE FOR CONSTRUCTION, REPAIR, IMPROVEMENT, AND MAINTENANCE.—(1)(A) The Secretary of Defense may use the proceeds from the surcharges imposed under subsection (e) only—

''(i) to acquire (including acquisition by lease), construct, convert, expand, improve, repair, maintain, and equip the physical infrastructure of commissary stores and central product processing facilities of the defense commissary system; and

''(ii) to cover environmental evaluation and construction costs related to activities described in clause (i), including costs for surveys, administration, overhead, planning, and design.

''(B) In subparagraph (A), the term 'physical infrastructure' includes real property, utilities, and equipment (installed and free standing and including computer equipment), necessary to provide a complete and usable commissary store or central product processing facility.

''(2)(A) The Secretary of Defense may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of surcharges under subsection (e) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

''(B) In subparagraph (A), the term 'construction', with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.

''(3) The Secretary of Defense, with the approval of the Director of the Office of Management and Budget, may obligate anticipated proceeds from the surcharges under subsection (e) for any use specified in paragraph (1) or (2), without regard to fiscal year limitations, if the Secretary determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in such paragraph.

''(4) Revenues received by the Secretary of Defense from the following sources or activities of commissary store facilities shall be available for the purposes set forth in paragraphs (1), (2), and (3):

''(A) Sale of recyclable materials.

''(B) Sale of excess and surplus property.

''(C) License fees.

''(D) Royalties.

''(E) Fees paid by sources of products in order to obtain favorable display of the products for resale, known as business related management fees.'';

(6) by inserting section 2485, as redesignated by paragraph (2), after section 2484, as amended by paragraph (5); and

(7) in section 2485, as redesignated by paragraph (2)—

(A) in subsection (a)(2), by adding at the end the following new sentence: ''Until December 31, 2009, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A–76 relating to the possible contracting out of commissary store functions.'';

(B) in subsection (b)(2), by striking ''section 2484'' and inserting ''section 2483'';

(C) in subsection (c)(2), by adding at the end the following new sentences: ''The chairman of the governing board shall be a commissioned officer or member of the senior executive service who has demonstrated experience or knowledge relevant to the management of the defense commissary system. In selecting other members of the governing board, the Secretary shall give priority to persons with experience related to logistics, military personnel, military entitlements or other experiences of value of management of commissaries.''; and

(D) by adding at the end the following new subsections:

''(d) ASSIGNMENT OF ACTIVE DUTY MEMBERS.—(1) Except as provided in paragraph (2), members of the armed forces on active duty may not be assigned to the operation of a commissary store.

''(2)(A) The Secretary of Defense may assign an officer on the active-duty list to serve as the Director of the Defense Commissary Agency.

''(B) Not more than 18 members (in addition to the officer referred to in subparagraph (A)) of the armed forces on active duty may be assigned to the Defense Commissary Agency. Members who may be assigned under this subparagraph to regional headquarters of the agency shall be limited to enlisted members assigned to duty as advisers in the regional headquarters responsible for overseas commissaries and to veterinary specialists.

''(e) REIMBURSEMENT FOR USE OF COMMISSARY FACILITIES BY MILITARY DEPARTMENTS.—(1) The Secretary of a military department shall pay the Defense Commissary Agency the amount determined under paragraph (2) for any use of a commissary facility by the military department for a purpose other than commissary sales or operations in support of commissary sales.

''(2) The amount payable under paragraph (1) for use of a commissary facility by a military department shall be equal to the share of depreciation of the facility that is attributable to that use, as determined under regulations prescribed by the Secretary of Defense.

''(3) The Director of the Defense Commissary Agency shall credit amounts paid under paragraph (1) for use of a facility to an appropriate account to which proceeds of a surcharge applied under section 2484(e) of this title are credited.

''(4) This subsection applies with respect to a commissary facility that is acquired, constructed, converted, expanded, installed, or otherwise improved (in whole or in part) with the proceeds of a surcharge applied under section 2484(e) of this title.

''(f) DONATION OF UNUSABLE FOOD.—(1) The Secretary of Defense may donate food described in paragraph (2) to any of the following entities:

''(A) A charitable nonprofit food bank that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

''(B) A State or local agency that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

''(C) A chapter or other local unit of a recognized national veterans organization that provides services to persons without adequate shelter and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

''(D) A not-for-profit organization that provides care for homeless veterans and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

''(2) Food that may be donated under this subsection is commissary store food, mess food, meals ready-to-eat (MREs), rations known as humanitarian daily rations (HDRs), and other food available to the Secretary of Defense that—

''(A) is certified as edible by appropriate food inspection technicians;

''(B) would otherwise be destroyed as unusable; and

''(C) in the case of commissary store food, is unmarketable and unsaleable.

''(3) In the case of commissary store food, a donation under this subsection shall take place at the site of the commissary store that is donating the food.

''(4) This subsection does not authorize any service (including transportation) to be provided in connection with a donation under this subsection.

''(g) COLLECTION OF DISHONORED CHECKS.—(1) The Secretary of Defense may impose a charge for the collection of a check accepted at a commissary store that is not honored by the financial institution on which the check is drawn. The imposition and amounts of charges shall be consistent with practices of commercial grocery stores regarding dishonored checks.

''(2)(A) The following persons are liable to the United States for the amount of a check referred to in paragraph (1) that is returned unpaid to the United States, together with any charge imposed under that paragraph:

''(i) The person who presented the check.

''(ii) Any person whose status and relationship to the person who presented the check provide the basis for that person's eligibility to make purchases at a commissary store.

''(B) Any amount for which a person is liable under subparagraph (A) may be collected by deducting and withholding such amount from any amounts payable to that person by the United States.

''(3) Amounts collected as charges imposed under paragraph (1) shall be credited to the commissary trust revolving fund.

''(4) Appropriated funds may be used to pay any costs incurred in the collection of checks and charges referred to in paragraph (1). An appropriation account charged a cost under the preceding sentence shall be reimbursed the amount of that cost out of funds in the commissary trust revolving fund.

''(5) In this subsection, the term 'commissary trust revolving fund' means the trust revolving fund maintained by the Department of Defense for surcharge collections and proceeds of sales of commissary stores.

''(h) RELEASE OF CERTAIN COMMERCIALLY VALUABLE INFORMATION TO PUBLIC.—(1) The Secretary of Defense may limit the release to the public of any information described in paragraph (2) if the Secretary determines that it is in the best interest of the Department of Defense to limit the release of such information. If the Secretary determines to limit the release of any such information, the Secretary may provide for limited release of such information in accordance with paragraph (3).

''(2) Paragraph (1) applies to the following:

''(A) Information contained in the computerized business systems of commissary stores or the Defense Commissary Agency that is collected through or in connection with the use of electronic scanners in commissary stores, including the following information:

''(i) Data relating to sales of goods or services.

''(ii) Demographic information on customers.

''(iii) Any other information pertaining to commissary transactions and operations.

''(B) Business programs, systems, and applications (including software) relating to commissary operations that were developed with funding derived from commissary surcharges.

''(3)(A) The Secretary of Defense may, using competitive procedures, enter into a contract to sell information described in paragraph (2).

''(B) The Secretary of Defense may release, without charge, information on an item sold in commissary stores to the manufacturer or producer of that item or an agent of the manufacturer or producer.

''(C) The Secretary of Defense may, by contract entered into with a business, grant to the business a license to use business programs referred to in paragraph (2)(B), including software used in or comprising any such program. The fee charged for the license shall be based on the costs of similar programs developed and marketed by businesses in the private sector, determined by means of surveys.

''(D) Each contract entered into under this paragraph shall specify the amount to be paid for information released or a license granted under the contract, as the case may be.

''(4) Information described in paragraph (2) may not be released, under paragraph (3) or otherwise, in a form that identifies any customer or that provides information making it possible to identify any customer.

''(5) Amounts received by the Secretary under this section shall be credited to funds derived from commissary surcharges applied under section 2484(e) of this title, shall be merged with those funds, and shall be available for the same purposes as the funds with which merged.''.

(b) RELATION BETWEEN DEFENSE COMMISSARY AND EXCHANGE SYSTEMS.—Chapter 147 of title 10, United States Code, is further amended—

(1) by inserting after section 2485, as amended by subsection (a)(7), the following:

''SUBCHAPTER II—RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

''Sec.
''2487. Existence and purpose of defense commissary system.
''2488. Combined exchange and commissary stores.
''2489. Overseas commissary and exchange stores: access and purchase restrictions.

''§2487. Relationship between defense commissary system and exchange stores system

''(a) SEPARATE SYSTEMS.—(1) Except as provided in paragraph (2), the defense commissary system and the exchange stores system shall be operated as separate systems of the Department of Defense.

''(2) Paragraph (1) does not apply to the following:

''(A) Combined exchange and commissary stores operated under the authority provided by section 2489 of this title.

''(B) NEXMART stores of the Navy Exchange Service Command established before October 1, 2003.

''(b) CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEFENSE RETAIL SYSTEMS.—(1) The operation and administration of the defense retail systems may not be consolidated or otherwise merged unless the consolidation or merger is specifically authorized by an Act of Congress.

''(2) In this subsection, the term 'defense retail systems' means the defense commissary system and exchange stores system and other revenue-generating facilities operated by nonappropriated fund instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces'';

(2) by redesignating sections 2488, 2489, 2489a as sections 2495, 2495a, and 2495b, respectively; and

(3) by redesignating sections 2490a and 2492 as sections 2488 and 2489, respectively, and inserting such sections after section 2487, as added by paragraph (1).

(c) MWR PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES.—Chapter 147 of title 10, United States Code, is further amended—

(1) by inserting after section 2489, as redesignated and moved by subsection (b)(3), the following:

''SUBCHAPTER III—MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES

''Sec.
''2491. Uniform funding and management of morale, welfare, and recreation programs.
''2491a. Department of Defense golf courses: limitation on use of appropriated funds.
''2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.
''2491c. Retention of morale, welfare, and recreation funds by military installations: limitation.
''2492. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services.
''2493. Fisher Houses: administration as nonappropriated fund instrumentality.
''2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes.
''2495. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.
''2495a. Overseas package stores: treatment of United States wines.
''2495b. Sale or rental of sexually explicit material prohibited.'';

(2) by redesignating section 2494 as section 2491 and inserting such section after the table of sections at the beginning of subchapter III, as added by paragraph (1);

(3) by redesignating section 2482a as section 2492 and inserting such section before section 2493;

(4) by inserting after section 2493 the following new section:

''§2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes

''Appropriations for the Department of Defense may be used to provide utility services for—

''(1) buildings on military installations authorized by regulation to be used for morale, welfare, and recreation purposes; and

''(2) other morale, welfare, and recreation activities for members of the armed forces.''; and

(5) by inserting sections 2495, 2495a, and 2495b, as redesignated by subsection (b)(2), after section 2494, as added by paragraph (4).

(d) INCLUSION OF OTHER TITLE 10 PROVISIONS.—Sections 2246, 2247, and 2219 of title 10, United States Code, are—

(1) transferred to chapter 147 of such title;

(2) inserted after section 2491, as redesignated and moved by subsection (c)(2); and

(3) redesignated as sections 2491a, 2491b, and 2491c, respectively.

(e) CONFORMING AMENDMENTS.—(1) Section 977 of title 10, United States Code, is repealed.

(2) Section 2868 of such title is amended by striking ''for—'' and all that follows through the period at the end and inserting ''for buildings constructed at private cost, as authorized by law.''.

(3) Section 367 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1987; 10 U.S.C. 2482 note) is repealed.

(f) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 49 of title

10, United States Code, is amended by striking the item relating to section 977.

(2) The table of sections at the beginning of chapter 132 of such title is amended by striking the item relating to section 2219.

(3) The table of sections at the beginning of subchapter I of chapter 134 of such title is amended by striking the items relating to sections 2246 and 2247.

SEC. 652. CONSISTENT STATE TREATMENT OF DEPARTMENT OF DEFENSE NONAPPROPRIATED FUND HEALTH BENEFITS PROGRAM.

Section 349 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2727) is amended by adding at the end the following new subsection:

''(c) TREATMENT OF PROGRAM AS FEDERAL HEALTH BENEFIT PROGRAM.—(1) No State tax, fee, other monetary payment, or State health plan requirement, may be imposed, directly or indirectly, on the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or on a carrier or an underwriting or plan administration contractor of the Program, to the same extent as such prohibition applies to the health insurance program authorized by chapter 89 of title 5, United States Code, under section 8909(f) of such title.

''(2) Paragraph (1) shall not be construed to exempt the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or any carrier or underwriting or plan administration contractor of the Program from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to, or realized by, the Program or by such carrier or contractor from business conducted under the Program, so long as the tax, fee, or payment is applicable to a broad range of business activity.

''(3) In this section, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any political subdivision or other non-Federal authority thereof.''.

SEC. 653. COOPERATION AND ASSISTANCE FOR QUALIFIED SCOUTING ORGANIZATIONS SERVING DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OVERSEAS.

(a) AUTHORITY TO COOPERATE AND PROVIDE ASSISTANCE.—Subsection (a) of section 2606 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ''Subject to subsection (b)'' and inserting ''In the interest of promoting the recognized morale, welfare, and recreation of members of the armed forces''; and

(2) in subsection (b), by striking ''and may'' and all that follows through ''armed forces''.

(b) TREATMENT OF ORGANIZATIONS AND EMPLOYEES.—Such section is further amended—

(1) by striking subsections (e) and (f);

(2) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (b) the following new subsections:

''(c) TREATMENT AS NONAPPROPRIATED FUND INSTRUMENTALITIES.—(1) Subject to paragraphs (2) and (3), to the extent a qualified scouting organization is providing services for members of the armed forces and their dependents, or civilian employees of the Department of Defense and their dependents, at a location outside the United States consistent with the regulations prescribed under subsection (b), the qualified scouting organization shall be a nonappropriated fund instrumentality of the Department of Defense.

''(2) Notwithstanding treatment as a nonappropriated fund instrumentality of the Department of Defense, personnel of the qualified scouting organization who are performing duties in connection with cooperation and assistance provided under subsection (a) may continue such policies and procedures related to personnel management and such other policies or procedures established by the qualified scouting organization as the personnel consider appropriate, subject to the approval of the qualified scouting organization.

''(3) A qualified scouting organization operating outside the United States may operate as a private association overseas for the purpose of raising funds. Any funds so raised may not be commingled with amounts retained in a nonappropriated morale, welfare, and recreation account of the Department of Defense.

''(d) TREATMENT AS NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEES.—(1) Personnel of a qualified scouting organization who are performing duties in connection with cooperation and assistance provided under subsection (a) for members of the armed forces and their dependents, or civilian employees of the Department of Defense and their dependents, shall be nonappropriated fund instrumentality employees of the United States for any period during which the personnel perform such duties.

''(2) Such personnel of a qualified scouting organization shall receive the same benefits, entitlements, and logistical support as other nonappropriated fund instrumentality employees, except that such personnel—

''(A) shall be allowed to decline to participate in retirement programs or other personnel management policies or procedures available to other nonappropriated fund instrumentality employees and elect to continue the programs, policies or procedures made available by the qualified scouting organization; and

''(B) shall not receive nonappropriated fund instrumentality employment credit nor rehire priority.

''(3) In the regulations prescribed under subsection (b), the Secretary of Defense may authorize the use of funds appropriated to the Department of Defense to pay costs of such personnel of a qualified scouting organization, including reimbursement of the personnel or the qualified scouting organization, in the case of those retirement, personnel management, and other compensation programs regarding which the personnel have elected to continue the programs made available to them by the qualified scouting organization.''.

(c) CONFORMING AND CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting ''AUTHORITY TO COOPERATE AND PROVIDE ASSISTANCE.—'' after ''(a)'';

(2) in subsection (c), by inserting ''BASIS FOR COOPERATION AND ASSISTANCE.—'';

(3) in subsection (e), as redesignated by subsection (b)(2)—

(A) by inserting ''PROVISION OF TRANSPORTATION, SPACE, AND SERVICES.—'' after ''(e)''; and

(B) in the matter preceding paragraph (1), by inserting '', using the authority of subsection (d)(3)'' after ''furnished'';

(4) in subsection (f), as redesignated by subsection (b)(2), by inserting ''TRANSPORTATION OF SUPPLIES.—'' after ''(f)''; and

(5) in subsection (g), by inserting ''DEFINITION.—'' after ''(g)''.

Subtitle F—Other Matters

SEC. 661. REPEAL OF REQUIREMENT THAT MEMBERS ENTITLED TO BASIC ALLOWANCE FOR SUBSISTENCE PAY SUBSISTENCE CHARGES WHILE HOSPITALIZED.

(a) REPEAL.—(1) Section 1075 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 55 of such title is amended by striking the item relating to section 1075.

(b) CONFORMING AMENDMENT REGARDING MILITARY-CIVILIAN HEALTH SERVICES PARTNERSHIP PROGRAM.—Section 1096(c) of such title is amended—

(1) by inserting ''who is a dependent'' after ''covered beneficiary''; and

(2) by striking ''shall pay'' and all that follows through the period at the end of paragraph (2) and inserting ''shall pay the charges prescribed by section 1078 of this title.''.

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

SEC. 662. CLARIFICATION OF EDUCATION LOANS QUALIFYING FOR EDUCATION LOAN REPAYMENT PROGRAM FOR RESERVE COMPONENT HEALTH PROFESSIONS OFFICERS.

Section 16302(a)(5) of title 10, United States Code, is amended by inserting ''a basic professional qualifying degree (as determined under regulations prescribed by the Secretary of Defense) or graduate education in'' after ''regarding''.

SEC. 663. SURVEY AND ANALYSIS OF EFFECT OF EXTENDED AND FREQUENT MOBILIZATION OF RESERVISTS FOR ACTIVE DUTY SERVICE ON RESERVIST INCOME.

(a) SURVEY OF MOBILIZED RESERVISTS TO DETERMINE DIFFERENTIAL BETWEEN PRIVATE SECTOR INCOME AND MILITARY COMPENSATION.—(1) The Secretary of Defense shall conduct a survey involving members of the reserve components who serve, or have served, on active duty in support of a contingency operation at any time during the period beginning on September 11, 2001, and ending on September 30, 2005, to determine the extent to which such members sustained a reduction in monthly income during the period of the active duty service compared to the average monthly civilian income of the members during the 12 months preceding their mobilization.

(2) At least 50 percent of the total number of members of the reserve components who have served on active duty in support of a contingency operation at any time during the period specified in paragraph (1) shall be included in the survey.

(b) CALCULATION OF INCOME DIFFERENTIAL.—For each member surveyed under subsection (a) who reports that total monthly military compensation during the active duty service of the member was less, or appeared to be less, than the average monthly civilian income of the member, the Secretary of Defense, in cooperation with the member, shall calculate the monthly active-duty income differential for the member.

(c) DEFINITIONS USED IN CONDUCTING SURVEY AND CALCULATIONS.—In this section:

(1) The term ''monthly active-duty income differential'', with respect to a member of a reserve component surveyed under subsection (a), means the difference between—

(A) the average monthly civilian income of the member; and

(B) the total monthly military compensation of the member.

(2) The term ''average monthly civilian income'', with respect to a member of a reserve component surveyed under subsection (a), means the amount, determined by the Secretary of Defense, of the earned income of the member for the 12 months preceding the first mobilization of the member during the period specified in subsection (a)(1), divided by 12.

(3) The term ''total monthly military compensation'', with respect to a member of a reserve component surveyed under subsection (a), means the amount, computed on a monthly basis, of the sum of—

(A) the amount of the regular military compensation (RMC), as defined in section 101(25) of title 37, United States Code, of the member during the period specified in subsection (a)(1); and

(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis during the period specified in subsection (a)(1).

(d) COLLECTION OF DEMOGRAPHIC DATA.—The Secretary of Defense shall collect demographic

data regarding each member of a reserve component surveyed under subsection (a), including, at a minimum, data on the following:

(1) Reserve component.

(2) Unit of assignment.

(3) Grade.

(4) Age.

(5) Years of service.

(6) Sex.

(7) Marital status.

(8) Number of dependents.

(9) General category of private-sector employment, as determined by the Secretary, but to include an employment category to cover members who are self-employed.

(10) Military occupational specialty, including specifying all surveyed members who are serving in a critical wartime specialty.

(11) Length of service on active duty during the most recent mobilization.

(12) Number of times mobilized since September 11, 2001.

(e) EFFECT OF INCOME LOSS ON RETENTION.—The Secretary of Defense shall include in the survey a question to solicit information from each member of a reserve component surveyed under subsection (a) regarding the likely effect of a reoccurring monthly active-duty income differential for the member while serving on active duty on the decision of the member to remain in the reserve component.

(f) ANALYSIS OF SURVEY DATA.—(1) At a minimum, the Secretary of Defense shall determine, for each variable listed in paragraphs (2) through (12) of subsection (d), the number of members of the reserve components surveyed under subsection (a) who sustained a monthly active-duty income differential for any month during their active duty service and compare and contrast that number with the number of members who did not experience a monthly active-duty income differential.

(2) The Secretary shall also determine the average amount of the active-duty income differential by reserve component for each variable within the characteristics listed in paragraphs (2) through (12) of subsection (d).

(g) SUBMISSION OF SURVEY RESULTS AND RECOMMENDATIONS.—Not later than January 31, 2006, the Secretary of Defense shall submit to Congress and the Comptroller General a report containing the results of the surveys conducted under subsection (a), including the results of the analysis of survey data required by subsection (e). The Secretary shall include such recommendations as the Secretary considers appropriate regarding alternatives for restoring income lost by members of the reserve components who sustained a monthly active-duty income differential during their active duty service.

(h) COMPTROLLER GENERAL EVALUATION.—Not later than March 31, 2006, the Comptroller General shall submit to Congress an assessment of the findings and recommendations contained in the report of the Secretary of Defense submitted under subsection (g).

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Enhanced Benefits for Reserves

SEC. 701. DEMONSTRATION PROJECT FOR TRICARE COVERAGE FOR READY RESERVE MEMBERS.

(a) DEMONSTRATION PROGRAM.—Section 1076b of title 10, United States Code, is amended to read as follows:

"§ 1076b. TRICARE demonstration project: coverage for members of the Ready Reserve

''(a) IN GENERAL.—(1) The Secretary of Defense shall conduct a demonstration project beginning in fiscal year 2005 to test whether TRICARE coverage for certain Ready Reserve members and their families enhances medical readiness and retention of such members.

''(2) Under the demonstration project required by paragraph (1), within the scope of the project, as established by the Secretary, members of the Ready Reserve may be allowed to enroll for coverage under the TRICARE Standard option of the TRICARE program and receive benefits under such enrollment for any period that the member—

''(A) is not eligible for health care benefits under an employer-sponsored health benefits plan; and

''(B) either—

''(i) is not on active duty; or

''(ii) is on active duty but under a call or order to active duty for a period of 30 days or less.

''(3) A member allowed to enroll in TRICARE Standard under the demonstration project may enroll for self-only coverage or self and family coverage.

''(b) SCOPE OF COVERAGE .—A member and the dependents of a member enrolled in TRICARE Standard under this section shall be entitled to the same benefits and shall pay the same charges as are provided under section 1079 of this title.

''(c) PREMIUMS.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section. The Secretary shall prescribe a premium for self only coverage and a premium for self and family coverage.

''(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be the amount equal to 28 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

''(3) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members not entitled to such basic pay or compensation.

''(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.

''(d) CONDITIONS OF ELIGIBILITY.—(1) The Secretary of Defense may establish other conditions of eligibility, including requiring a member to submit any certification that the Secretary considers appropriate to substantiate the member's assertion that the member is not eligible for health care benefits under any other health benefits plan.

''(2) In the case of any member who is self-employed and not eligible for coverage under any other employer-sponsored health benefits plan, the member shall not be considered eligible to enroll under this section if the member's income in the prior calendar year exceeded $40,000.

''(e) SCOPE AND TERMS OF DEMONSTRATION PROJECT.—The geographic scope and priorities for enrollment under the demonstration program, if any, shall be established by the Secretary of Defense. The Secretary may establish such other terms and conditions for the demonstration project required by subsection (a) as the Secretary determines appropriate to accomplish its purposes.

''(f) TERMINATION OF AUTHORITY.—An enrollment in TRICARE under this section may not continue after December 31, 2007.

''(g) EVALUATION OF DEMONSTRATION AND REPORT TO CONGRESS.—Not later than March 1, 2007, the Secretary shall provide to Congress a report on the results of the demonstration project required by this section. Such report shall include an analysis of the impact of the demonstration on medical readiness and retention of the members who enrolled, an assessment of the costs and benefits of any improvements in medical readiness or retention, and recommendations concerning TRICARE Standard coverage for Ready Reserve members.

''(h) DEFINITION.—In this section, the term 'TRICARE Standard' means the option of the TRICARE program that is also known as the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of this title.''.

(b) TERMINATION OF COVERAGE UNDER SUPERSEDED PROVISION OF LAW.—An enrollment in TRICARE under section 1076b of title 10, United States Code, as in effect before the date of the enactment of this Act may not continue after such date.

(c) SITE IDENTIFICATION.—(1) Not later than 60 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Committees on Armed Services of the Senate and the House of Representatives, shall identify not less than 10 sites that meet the criteria specified in paragraph (2) for the conduct of the demonstration project required under section 1076b of title 10, United States Code, as amended by this section.

(2) For purposes of paragraph (1), the sites selected for the conduct of the demonstration project shall be areas of the United States that include a substantial number of personnel expected to be ordered to active duty for a period of more than 30 days.

(d) INDEPENDENT EVALUATION AND REPORTS.—(1) The Comptroller General shall conduct an evaluation of the demonstration project required under section 1076b of title 10, United States Code (as amended by this section) The evaluation shall include an assessment of the following:

(A) Compliance by the Department of Defense with the requirements under section 1076b of title 10, United States Code (as amended by this section).

(B) A description of the effects of the demonstration project on medical readiness and retention of the participants compared to nonparticipants.

(C) The number of Ready Reserve members and their dependents opting to participate in the demonstration project.

(D) An analysis of how the demonstration project affects the overall accessibility of care in the direct and purchased care systems and a description of the unintended effects (if any) upon the normal treatment priority system.

(E) A description of the difficulties (if any) experienced by the Department of Defense in managing the demonstration project.

(F) Any impact of the demonstration project on employers, including causing them to discontinue health care insurance benefits for employees who are members of the reserves.

(G) A recommendation whether to extend the demonstration project or make the project permanent.

(H) A determination of whether the terms and conditions of the demonstration project should be continued or modified if the project is extended or expanded.

(I) Implications on cost, medical readiness, recruitment, and retention if the demonstration project was made available to all reservists meeting the enrollment criteria throughout the United States and its territories.

(J) Any additional elements that the Comptroller General determines are appropriate to assess the demonstration project.

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives—

(A) an interim report on the evaluation under this section not later than 12 months after the date on which the demonstration project begins operation; and

(B) a final report on the evaluation under this section not later than March 1, 2007.

SEC. 702. COMPTROLLER GENERAL REPORT ON THE COST AND FEASIBILITY OF PROVIDING PRIVATE HEALTH INSURANCE STIPENDS FOR MEMBERS OF THE READY RESERVES.

(a) STUDY REQUIRED.—The Comptroller General shall conduct a study on the cost and feasibility of providing a stipend to members of the

Ready Reserves to offset the cost of continuing private health insurance coverage for the member's dependents when the member is on active duty for a period of more than 30 days, with the dependents being ineligible to enroll in the TRICARE program and payment of the stipend ending when the member is no longer on active duty.

(b) MATTERS COVERED.—The study shall include the following matters:

(1) Recommendation for a benefit amount and cost to the Department of Defense.

(2) Potential effects on medical readiness, recruitment, and retention.

(3) The extent to which the Reserves and members of their families might participate under the stipend program.

(4) Administrative and management considerations for the Department of Defense.

(5) Impact of pre-existing conditions on continuity of care for dependents.

(6) Possible implications for employers.

(c) REPORT.—Not later than March 31, 2005, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the study under this section.

SEC. 703. IMPROVEMENT OF MEDICAL SERVICES FOR ACTIVATED MEMBERS OF THE READY RESERVE AND THEIR FAMILIES.

(a) REQUIREMENT FOR TRICARE COVERAGE FOR DEPENDENTS OF MEMBERS OF RESERVE COMPONENTS CALLED TO ACTIVE DUTY.—Paragraph (1) of section 1074(d) of title 10, United States Code, is amended—

(1) by inserting ''a dependent of'' after ''chapter,'';

(2) by inserting ''a dependent of a member'' after ''treated as being''; and

(3) by striking ''the later of'' and all that follows through the period at the end of subparagraph (B) and inserting ''the date described in paragraph (3).''.

(b) AUTHORITY FOR TRICARE COVERAGE FOR MEMBERS OF RESERVE COMPONENTS CALLED TO ACTIVE DUTY.—Section 1074(d) of such title is further amended—

(1) by striking paragraph (3);

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following new paragraphs:

''(2) The Secretary of Defense may, beginning on the date described in paragraph (3), provide a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, such medical and dental care (in addition to care for which the member is eligible under section 1074a(f) of this title or other provisions of law) the Secretary determines appropriate.

''(3) The date referred to in paragraphs (1) and (2) with respect to a member is the later of the date that is—

''(A) the date of the issuance of the delayed-effective-date active-duty order; or

''(B) 90 days before the date on which the period of active duty is to commence under such order for that member.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2005.

SEC. 704. MODIFICATION OF WAIVER OF CERTAIN DEDUCTIBLES UNDER TRICARE PROGRAM.

Section 1095d(a) of title 10, United States Code, is amended in paragraphs (1) and (2) by striking ''less than one year'' each place it appears and inserting ''more than 30 days''.

SEC. 705. AUTHORITY FOR PAYMENT BY UNITED STATES OF ADDITIONAL AMOUNTS BILLED BY HEALTH CARE PROVIDERS TO ACTIVATED RESERVE MEMBERS.

Section 1079(h) of title 10, United States Code, is amended by adding at the end of paragraph (4) the following new subparagraph:

''(C) In the case of services billed to a dependent referred to in subsection (a) of a member of a reserve component who is ordered to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title, the regulations shall provide that, in addition to amounts otherwise payable by the United States, the Secretary may pay the amount referred to in subparagraph (B)(i) for the services.''.

SEC. 706. EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS AFTER SEPARATION FROM ACTIVE DUTY.

(a) EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS.—Paragraph (3) of section 1145(a) of title 10, United States Code, is amended to read as follows:

''(3) Transitional health care shall be available under this subsection for a period beginning on the date on which the member is separated from active duty and ending on the earlier of—

''(A) 180 days after the date on which the member is separated from active duty; or

''(B) the date on which the member and dependents of the member are covered by a health plan sponsored by an employer.''.

(b) LIMITATION.—During the period beginning on January 1, 2005, and ending on September 30, 2005, not more than $170,000,000 of the amount appropriated pursuant to the authorization for operations and maintenance for the Defense Health Program in section 303(a) may be used for transitional health care under section 1145(a) of title 10, United States Code, as amended by this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to separations from active duty that take effect on or after January 1, 2005.

Subtitle B—Other Benefits Improvements

SEC. 711. COVERAGE OF CERTAIN YOUNG CHILDREN UNDER TRICARE DENTAL PROGRAM.

(a) COVERAGE OF CERTAIN YOUNG CHILDREN.—Section 1076a(k)(2) of title 10, United States Code, is amended by inserting after ''by reason of'' the following: ''the dependent's young age on the date of death of the member of''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 712. COMPTROLLER GENERAL REPORT ON PROVISION OF HEALTH AND SUPPORT SERVICES FOR EXCEPTIONAL FAMILY MEMBER PROGRAM ENROLLEES.

(a) EVALUATION REQUIREMENT.—The Comptroller General shall evaluate the effect of the Exceptional Family Member Program (in this section referred to as ''EFMP'') on health and support services in selected civilian communities near military installations with a high concentration of EFMP enrollees.

(b) MATTERS COVERED.—The evaluation under subsection (a) shall include a discussion of the following:

(1) Communities that have high concentrations of EFMP enrollees that use State and local health and support services.

(2) Needs of EFMP enrollees, if any, that are not met by State and local health and support services.

(3) The burdens, financial and otherwise, placed on State and local health and support services by EFMP enrollees and their families.

(4) The ability of the TRICARE program to meet the needs of EFMP enrollees and their families.

(5) Reasons for any limitations of the TRICARE program, the EFMP, and State and local health and support services in providing assistance to EFMP enrollees and their families.

(6) Recommendations for more effectively meeting the needs of EFMP enrollees and their families.

(c) COMMUNITIES COVERED.—The evaluation under subsection (a) shall examine no fewer than four civilian communities, as determined by the Comptroller General, that have high concentrations of EFMP enrollees and that are near several military installations, including at least two military installations with tenants from more than one of the Armed Forces.

(d) DEFINITIONS.—In this section:

(1) The term ''health and support services'' means services provided to children and other dependents with special needs, including specialized day care, mental health day treatment services, respite services, counseling, and other such services provided for children and other dependents with special needs.

(2) The term ''TRICARE program'' has the meaning given that term in section 1072(7) of title 10, United States Code.

(e) REPORT.—Not later than March 31, 2005, the Comptroller General shall submit to the Armed Services Committees of the Senate and the House of Representatives a report on the results of the evaluation required under subsection (a), with findings and recommendations.

SEC. 713. EXCEPTIONAL ELIGIBILITY FOR TRICARE PRIME REMOTE.

Section 1079(p) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) The Secretary of Defense may provide for coverage of a dependent referred to in subsection (a) who is not described in paragraph (3) if the Secretary determines that exceptional circumstances warrant such coverage.''.

SEC. 714. TRANSITION TO HOME HEALTH CARE BENEFIT UNDER SUB-ACUTE CARE PROGRAM.

Section 1074j of title 10, United States Code, is amended in subsection (b)(3)—

(1) by inserting ''(A)'' after ''(3)''; and

(2) by adding at the end the following:

''(B) The Secretary of Defense shall establish procedures for the transition to and implementation of the home health care benefit required by subparagraph (A). The Secretary may provide in such procedures that covered beneficiaries who, before the implementation of such benefit, received home health care under this chapter in excess of such benefit, may continue to receive such care for such time as the Secretary considers appropriate.''.

SEC. 715. REQUIREMENT RELATING TO PRESCRIPTION DRUG BENEFITS FOR MEDICARE-ELIGIBLE ENROLLEES UNDER DEFENSE HEALTH CARE PLANS.

Section 1074g(a)(6) of title 10, United States Code, is amended—

(1) by inserting ''(A)'' after ''(6)''; and

(2) by adding at the end the following:

''(B) For a medicare-eligible beneficiary, the cost-sharing requirements may not be in excess of the cost-sharing requirements applicable to all other beneficiaries covered by section 1086 of this title. For purposes of the preceding sentence, a medicare-eligible beneficiary is a beneficiary eligible for health benefits under section 1086 of this title pursuant to subsection (d)(2) of such section.''.

SEC. 716. PROFESSIONAL ACCREDITATION OF MILITARY DENTISTS.

Section 1077(c) of title 10, United States Code, is amended—

(1) by striking ''A'' and inserting ''(1) Except as provided in paragraph (2), a''; and

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

''(2)(A) Dependents who have not attained age 13 and who are participating under a dental plan established under section 1076a of this title may be treated by post-graduate dental students in eligible dental treatment facilities if—

''(i)(I) treatment of pediatric dental patients is required to comply with American Dental Association accreditation standards; or

''(II) pediatric dental training is required to enable post-graduate dental students to provide dental care for such dependents outside the United States; and

''(ii) there are insufficient numbers of children eligible to be provided dental care under section 1076(a) of this title to meet such standards or training requirements.

''(B) The total number of dependents who may be treated under this paragraph may not exceed 2,000 in any fiscal year.

''(C) In this paragraph, an eligible dental treatment facility is a dental treatment facility with a post-graduate dental education program accredited by the American Dental Association.''.

SEC. 717. ADDITION OF CERTAIN UNREMARRIED FORMER SPOUSES TO PERSONS ELIGIBLE FOR DENTAL INSURANCE PLAN OF RETIREES OF THE UNIFORMED SERVICES.

(a) ELIGIBILITY OF CERTAIN FORMER SPOUSES FOR DENTAL COVERAGE.—(1) Section 1076c(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(6) A person who—

''(i) is an unremarried former spouse of a member described in paragraph (1) or (2);

''(i) is described in section 1072(2)(F)(i) of this title; and

''(ii) does not have dental coverage under an employer-sponsored health plan.''.

(b) EFFECTIVE DATE.—Section 1076c(b)(6) of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act.

SEC. 718. WAIVER OF COLLECTION OF PAYMENTS DUE FROM CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) AUTHORITY TO WAIVE COLLECTION.—The Secretary of Defense may waive (in whole or in part) the collection of payments otherwise due from a person described in subsection (b) as a result of the receipt by the person of health benefits under section 1086 of title 10, United States Code, after the termination of the person's eligibility for such benefits and may also authorize continued coverage of benefits under section 1086 of such title for such person for the period described in subsection (c).

(b) PERSONS ELIGIBLE.—A person shall be eligible for relief under subsection (a) if the person—

(1) is a person described in paragraph (1) of subsection (d) of section 1086, of title 10, United States Code;

(2) in the absence of such paragraph, would have been eligible for health benefits under such section;

(3) at the time of the receipt of such benefits, satisfies the criteria specified in subparagraph (B) of paragraph (2) of such subsection; and

(4) was unaware of the loss of eligibility to receive health benefits at the time they were received.

(c) EXTENT OF AUTHORITY.—The authority to waive the collection of payments and to continue coverage of benefits under this section shall apply during the period beginning on July 1, 1999, and ending on December 31, 2004, under terms established by the Secretary of Defense.

(d) QUARTERLY REPORTS.—(1) The Secretary of Defense shall provide quarterly reports to the Committees on Armed Services of the Senate and House of Representatives regarding—

(A) efforts by the Department of Defense to identify persons who satisfy the criteria specified in subparagraph (B) of subsection (d)(2) of section 1086 of title 10, United States Code, and would be eligible for health benefits under such section if the criteria specified in subparagrpah (A) were also satisfied; and

(B) actions taken by the Department with respect to persons identified under subparagraph (B) of this paragraph.

(2) The first report under paragraph (1) shall be submitted not later than 30 days after the end of the first quarter of fiscal year 2005.

Subtitle C—Planning, Programming, and Management

SEC. 721. PILOT PROGRAM FOR TRANSFORMATION OF HEALTH CARE DELIVERY.

(a) FINDINGS.—(1) Congress finds the following:

(A) Historically, providing military health care to military beneficiaries has centered on building a military medical treatment facility and providing a full range of services on a military installation.

(B) Traditionally, in many locations the majority of military personnel and their dependents who are eligible beneficiaries of the military health care system do not live on military installations.

(C) As the cost of repairing, replacing, recapitalizing, or expanding aging military treatment facilities and maintaining adequate health care services on military installations increases, the Department of Defense will be challenged to find new, more cost-effective ways of providing enhanced health care for military and civilian beneficiaries of the Department of Defense health care system.

(2) In view of these findings, the Secretary of Defense is directed to examine feasible and cost-effective methods for leveraging and expanding non-military health care resources to provide health care to military beneficiaries. Furthermore, the Secretary of Defense shall conduct a pilot program in accordance with this section.

(b) PILOT PROGRAM PURPOSES.—The Secretary of Defense shall conduct a pilot program at one or more military installations for purposes of testing—

(1) the feasibility and cost effectiveness of expanding use of non-military health care resources, particularly in cases in which such use would reduce or eliminate the need for military medical construction projects;

(2) initiatives that build cooperative health care arrangements and agreements between military installations and local and regional non-military health care systems; and

(3) development of an integrated, long range business plan for the delivery of health care services for military beneficiaries, incorporating present and potential future capabilities in the non-military health care sector.

(c) REQUIREMENTS OF PILOT PROGRAM.—In conducting the pilot program, the Secretary of Defense shall—

(1) identify and analyze health care delivery options that range from outsourcing all health care delivery services to the private sector to providing some health care services in military facilities located on the installation;

(2) determine the cost avoidance or savings resulting from innovative partnerships between the Department of Defense and the private sector and limiting recapitalization costs in military facilities;

(3) study the potential, viability, cost efficiency, and health care effectiveness of Department of Defense health care providers delivering health care in civilian community hospitals;

(4) determine the opportunities for and barriers to coordinating and leveraging the use of existing health care resources, including Federal, State, local, and contractor assets; and

(5) develop recommendations for a model health care delivery system that may be used at other military installations.

(d) CONSULTATION REQUIREMENTS.—The Secretary of Defense shall develop the pilot program in consultation with the Secretaries of the military departments, representatives from the military installation selected for the pilot program, Federal, State, and local entities, and the TRICARE managed care support contractor with responsibility for that installation.

(e) SELECTION OF MILITARY INSTALLATION.—The pilot program shall be implemented at one or more military installations selected by the Secretary of Defense. At least one of the selected military installations shall meet the following criteria:

(1) The military installation is an Army installation located in a rural area.

(2) The military installation has members of the Armed Forces on active duty and members of reserve components of the Armed Forces that use the installation as a training and operational base, with members routinely deploying in support of the global war on terrorism.

(3) The number of members of the Armed Forces on active duty permanently assigned to the military installation is expected to increase over the next five years.

(4) One or more partnerships exist at the military installation with civilian health care entities in the form of limited specialty care services in the military medical treatment facility on the installation.

(5) There is a military treatment facility on the installation that does not have inpatient or trauma center care capabilities.

(6) There is a civilian community hospital within 15 miles of the military installation with limited capability to expand inpatient care beds, intensive care, and specialty services.

(7) There is no civilian hospital with a trauma center within 50 miles from the military installation.

(f) DURATION OF PILOT PROGRAM.—Implementation of the pilot program developed under this subsection shall begin not later than May 1, 2005, and shall be conducted during fiscal years 2005, 2006, and 2007.

(g) FUNDS.—For fiscal year 2005, not more than $5,000,000 of the amount appropriated pursuant to the authorization for operations and maintenance for the Defense Health Program in section 303(a) may be used to conduct the pilot program under this section.

(h) REPORTS.—Not later than July 1, 2005, the Secretary of Defense shall submit an interim report to the Committees on Armed Services of the Senate and of the House of Representatives describing the details of the pilot program. Not later than July 1, 2007, the Secretary of Defense shall submit to such committees a final report describing the results of the pilot program with recommendations for a model health care delivery system for other military installations.

SEC. 722. STUDY OF PROVISION OF TRAVEL REIMBURSEMENT TO HOSPITALS FOR CERTAIN MILITARY DISABILITY RETIREES.

(a) STUDY.—The Secretary of Defense shall conduct a study of the feasibility, and of the desirability, of providing that a member of the uniformed services retired under chapter 61 of title 10, United States Code, for a combat-related disability (as defined in section 1413a(e) of that title) shall be provided reimbursement for the travel expenses of such member for travel, during the two-year period beginning on the date of the retirement of the member, to a military treatment facility for medical care. The Secretary shall include in that study consideration of whether reimbursement under such a plan should, as nearly as practicable, be under the same terms and conditions, and at the same rate, as apply to beneficiary travel reimbursement provided by the Secretary of Veterans Affairs under section 111 of title 38, United States Code.

(b) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report providing the results of the study under subsection (a). Such report shall be submitted not later than March 1, 2005.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 801. RAPID ACQUISITION AUTHORITY TO RESPOND TO COMBAT EMERGENCIES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410p. Rapid acquisition authority to respond to combat emergencies

''(a) RAPID ACQUISITION AUTHORITY.—The Secretary of Defense may rapidly acquire, in accordance with this section, equipment needed by a combatant commander to eliminate a combat capability deficiency that has resulted in combat fatalities.

''(b) PROCESS FOR RAPID ACQUISITION.—Not later than 30 days after the date of the enactment of this section, the Secretary of Defense shall develop a process for the rapid acquisition authority provided by subsection (a) and submit to Congress a detailed explanation of the process, including procedures to be followed in carrying out the process. The process shall provide for the following:

''(1) A requirement that the process may be used only to acquire the minimum amount of equipment needed until the needs of the combatant commander can be fulfilled under existing acquisition statutes, policies, directives, and regulations.

''(2) A goal of awarding a contract for the equipment within 15 days after receipt of a request from a commander.

''(3) In a case in which the equipment cannot be acquired without an extensive delay, a requirement for an interim solution to minimize the combat capability deficiency and combat fatalities until the equipment can be acquired.

''(4) Waiver of the applicability of all policies, directives, and regulations related to—

''(A) the establishment of the requirement for the equipment;

''(B) the research, development, test, and evaluation of the equipment; and

''(C) the solicitation and selection of sources, and the award of the contract, for procurement of the equipment.

''(5) Such other procedures or requirements as the Secretary considers appropriate.

''(c) WAIVER OF CERTAIN STATUTES.—For purposes of exercising the authority provided by subsection (a) with respect to equipment, laws relating to the following shall not apply:

''(A) The establishment of the requirement for the equipment.

''(B) The research, development, test, and evaluation of the equipment.

''(C) The solicitation and selection of sources, and the award of the contract, for procurement of the equipment.

''(d) LIMITATIONS.—The rapid acquisition authority provided by subsection (a) may be used only—

''(1) after the Secretary of Defense, without delegation, determines in writing that there exists a combat capability deficiency that has resulted in combat fatalities; and

''(2) to acquire equipment in an amount aggregating not more than $100,000,000 during a fiscal year.

''(e) SOURCE OF FUNDS.—For acquisitions under this section to be made during any fiscal year, the Secretary may use any funds made available to the Department of Defense for that fiscal year.

''(f) NOTIFICATION TO CONGRESS AFTER EACH USE OF AUTHORITY.—The Secretary of Defense shall notify the congressional defense committees within 15 days after each use of the authority provided by subsection (a). Each such notice shall identify the equipment to be acquired, the amount to be expended for such acquisition, and the source of funds for such acquisition.

''(g) COMBATANT COMMANDER.—In this section, the term 'combatant commander' means the commander of a unified combatant command with authority for the conduct of operations in a specific area of responsibility or who otherwise has authority to conduct operations at the direction of the President or Secretary of Defense.''.

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

''2410p. Rapid acquisition authority to respond to combat emergencies.''.

SEC. 802. DEFENSE ACQUISITION WORKFORCE CHANGES.

(a) SELECTION CRITERIA AND PROCEDURES.—Section 1732(b)(1)(A) of title 10, United States Code, is amended by striking ''within grade GS–13 or above of the General Schedule'' and inserting ''in any position designated by the Secretary of Defense''.

(b) CRITICAL ACQUISITION POSITIONS.—Section 1733 of such title is amended by striking subsection (b) and inserting the following:

''(b) DESIGNATION OF CRITICAL ACQUISITION.—(1) The Secretary of Defense shall designate the acquisition positions in the Department of Defense that are critical acquisition positions. Such positions shall include the following:

''(A) Program executive officer.

''(B) Program manager of a major defense acquisition program (as defined in section 2430 of this title) or of a significant nonmajor defense acquisition program (as defined in section 1737(a)(3) of this title).

''(C) Deputy program manager of a major defense acquisition program.

''(D) Any other acquisition position of significant responsibility determined by the Secretary to be critical.

''(2) The Secretary shall annually publish a list of the positions designated under this subsection.''.

(c) SCHOLARSHIP PROGRAMS.—Section 1742 of such title is amended—

(1) by inserting ''(a) PROGRAMS.—'' at the beginning of the text; and

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

''(b) SCHOLARSHIP PROGRAM REQUIREMENTS.—With respect to any scholarship program conducted under this section, the Secretary of Defense and the participant shall agree in writing to the terms of the scholarship. The agreement shall include the obligations of the Secretary and the participant, as well as actions available for either party to take if there is a failure to meet the obligations under the agreement.''.

SEC. 803. LIMITATION ON TASK AND DELIVERY ORDER CONTRACTS.

Subsection 2304a(f) of title 10, United States Code, is amended to read as follows:

''(f) CONTRACT PERIOD.—The head of an agency entering into a task or delivery order contract under this section may provide for the contract to cover any base period up to five years and may extend the contract period for one or more successive periods pursuant to an option provided in the contract or a modification to the contract.''.

SEC. 804. FUNDING FOR CONTRACT CEILINGS FOR CERTAIN MULTIYEAR PROCUREMENT CONTRACTS.

(a) MULTIYEAR CONTRACTS RELATING TO PROPERTY.—Section 2306b(g) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' before ''Before any'';

(2) by striking ''Committee'' through ''House of Representatives'' and inserting ''congressional defense committees''; and

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

''(2) In the case of a contract described in subsection (a) with a cancellation ceiling described in paragraph (1), if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract, the head of the agency concerned shall, as part of the certification required by subsection (i)(1)(A), give written notification to the congressional defense committees of—

''(A) the cancellation ceiling amounts planned for each program year in the proposed multiyear procurement contract, together with the reasons for the amounts planned;

''(B) the extent to which costs of contract cancellation are not included in the budget for the contract; and

''(C) a financial risk assessment of not including budgeting for costs of contract cancellation, including proposed funding sources to meet such cancellation costs if the contract is canceled.''.

(b) MULTIYEAR CONTRACTS RELATING TO SERVICES.—Section 2306c(d) of title 10, United States Code, is amended—

(1) in paragraphs (1), (3), and (4), by striking ''committees of Congress named in paragraph (5)'' and inserting ''congressional defense committees'' each place it appears; and

(2) by amending paragraph (5) to read as follows:

''(5) In the case of a contract described in subsection (a) with a cancellation ceiling described in paragraph (4), if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract, the head of the agency concerned shall give written notification to the congressional defense committees of—

''(A) the cancellation ceiling amounts planned for each program year in the proposed multiyear procurement contract, together with the reasons for the amounts planned;

''(B) the extent to which costs of contract cancellation are not included in the budget for the contract; and

''(C) a financial risk assessment of not including budgeting for costs of contract cancellation, including proposed funding sources to meet such cancellation costs if the contract is canceled.''

SEC. 805. INCREASED THRESHOLD FOR REQUIRING CONTRACTORS TO PROVIDE SPECIFIED EMPLOYEE INFORMATION TO COOPERATIVE AGREEMENT HOLDERS.

Section 2416(d) of title 10, United States Code, is amended by striking ''$500,000'' and inserting ''$1,000,000''.

SEC. 806. EXTENSION OF AUTHORITY FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES.

Section 4202(e) of the Clinger-Cohen Act (division D of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) is amended by striking ''January 1, 2006'' and inserting ''October 1, 2009''.

SEC. 807. AUTHORITY TO ADJUST ACQUISITION-RELATED DOLLAR THRESHOLDS FOR INFLATION.

(a) INFLATION ADJUSTMENT AUTHORITY.—The FAR Council and the heads of executive agencies may adjust the dollar thresholds in procurement laws in order to maintain the constant dollar value of the threshold, taking into account the effect of inflation on the threshold.

(b) LIMITATION ON EXERCISE OF AUTHORITY.—Adjustments of dollar thresholds under subsection (a) may be carried out—

(1) by the FAR Council only with respect to procurement laws that apply to executive agencies generally; and

(2) by the head of an executive agency only with respect to procurement laws that apply to that agency exclusively.

(c) ADDITIONAL REQUIREMENTS.—In adjusting a threshold under subsection (a), the FAR Council and the head of an agency shall—

(2) consult with the Director of the Office of Management and Budget;

(3) round the threshold, to facilitate implementation; and

(4) publish the adjusted threshold in the Federal Register.

(d) EXCLUSIONS.—This section does not apply to—

(1) dollar thresholds in sections 3141 through 3144, 3146, and 3147 of title 40, United States Code;

(2) dollar thresholds in the Service Contract Act of 1965 (41 U.S.C. 351, et seq.); or

(3) dollar thresholds established by the United States Trade Representative pursuant to title III of the Trade Agreements Act of 1979 (19 U.S.C. 2511 et seq.).

(e) DEFINITIONS.—In this section:

(1) The term ''procurement law'' means any provision of law that sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.

(2) The terms ''executive agency'' and ''procurement'' have the meanings provided by section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1))

(3) The term ''FAR Council'' means the Federal Acquisition Regulatory Council established under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)).

Subtitle B—United States Defense Industrial Base Provisions

SEC. 811. DEFENSE TRADE RECIPROCITY.

(a) IN GENERAL.—Chapter 148 of title 10, United States Code, is amended by inserting after section 2532 the following new section:

''§2532a. Defense trade reciprocity

''(a) POLICY.—(1) It is the policy of Congress that procurement regulations used in the conduct of trade in defense articles and defense services shall be based on the principle of fair trade and reciprocity consistent with United States national security, including the need to ensure comprehensive manufacturing capability in the United States defense industrial base for military system essential items.

''(2) The Secretary of Defense shall make every effort to ensure that the policies and practices of the Department of Defense reflect the goal of establishing an equitable trading relationship between the United States and its foreign defense trade partners, including ensuring that United States firms and United States employment in the defense sector are not disadvantaged by unilateral procurement practices by foreign governments, such as the imposition of offset agreements or similar requirements in defense procurements by those governments. In pursuing this goal, the Secretary shall—

''(A) develop a comprehensive defense acquisition trade policy that provides the necessary guidance and incentives for the elimination of offset agreements as an accepted practice in defense trade; and

''(B) review and make necessary modifications to existing acquisition policies and strategies, and review and seek to make necessary modifications to existing memoranda of understanding, cooperative project agreements, or related agreements with foreign defense trade partners, to reflect this goal.

''(b) REQUIREMENT.—The Secretary of Defense may not enter into a contract, or approve or permit any subcontract under a contract entered into by the Department of Defense, for the procurement of any defense article or defense service from a foreign firm unless the country in which the foreign firm performs substantially all of its manufacturing, production, and research and development activities in the performance of the contract (or subcontract) agrees to apply offset agreements to the procurement of defense articles and defense services from the United States firms in the same manner and to the same degree as such agreements are applied by the Department of Defense to the procurement of defense articles and defense services from that country.

''(c) EXCEPTION.—Subsection (b) does not apply to a contract or subcontract for the procurement of a defense article or defense service from a foreign firm if the Secretary of Defense determines in writing, with respect to the specific contract or subcontract, that an exception to subsection (b) is necessary for the Department to be able to meet national security objectives.

''(d) NOTIFICATION REQUIRED WHEN EXCEPTION APPLIED.—The Secretary of Defense may not apply an exception under subsection (c) until—

''(1) a notification of the intent to apply such exception is submitted to the congressional defense committees and published in the Federal Register; and

''(2) a period of 30 days has expired after the date on which such notification is so submitted and published.

''(e) AUTHORITY TO APPLY EXCEPTION NOT DELEGABLE.—The authority of the Secretary to apply the exception under subsection (c) may not be delegated to any officer or employee in a position at a level lower than the position of the Under Secretary of Defense for Acquisition, Technology, and Logistics.–

''(f) REGULATIONS.—The Secretary shall prescribe regulations to implement this section in the Department of Defense supplement to the Federal Acquisition Regulation.

''(g) EFFECTIVE DATE.—This section and the regulations prescribed under this section shall apply to contracts and subcontracts entered into on and after the date occurring one year after the date of the enactment of this Act.

''(h) DEFINITIONS.—In this section:

''(1) The term 'foreign firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities outside of the United States.

''(2) The term 'United States firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities in the United States.

''(3) The term 'foreign defense trade partner' means a foreign country with respect to which there is—

''(A) a memorandum of understanding or related agreement described in section 2531(a) of title 10, United States Code; or

''(B) a cooperative project agreement described in section 27 of the Arms Export Control Act (22 U.S.C. 2767).

''(4) The term 'offset agreement' has the meaning provided that term by section 36(e) of the Arms Export Control Act (22 U.S.C. 2776(e)).

''(5) The terms 'defense article' and 'defense service' have the meanings provided those terms by section 47(7) of the Arms Export Control Act (22 U.S.C. 2794(7)).

''(6) The term 'military system essential item' means an item on the military system essential item breakout list produced pursuant to section 813(b) of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108–136; 117 Stat. 1544).''.

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

''2532a. Defense trade reciprocity.''.

SEC. 812. AMENDMENTS TO DOMESTIC SOURCE REQUIREMENTS.

(a) NOTICE.—Section 2533a of title 10, United States Code, is amended by adding at the end the following new subsection:

''(k) NOTIFICATION REQUIRED WHEN CERTAIN EXCEPTIONS APPLIED.—(1) Funds appropriated or otherwise available to the Department of Defense may not be used to enter into a contract to procure an item described in subsection (b) pursuant to an exception set forth in subsection (c) or (e) until—

''(A) a notification of the intent to apply such exception is submitted to Congress and posted on the website maintained by the General Services Administration known as FedBizOpps.gov (or any successor site); and

''(B) a period of 15 days has expired after the date on which such notification is so submitted and published.

''(2) In any case in which the Secretary of Defense or the Secretary of the military department concerned intends to apply or applies the exception set forth in subsection (d)(1), the Secretary concerned shall submit to Congress a notification of such intent or such application during the period beginning six months before the date of application of such exception and ending six months after the date of application of such exception.''.

(b) CLOTHING MATERIALS AND COMPONENTS COVERED.—Subsection (b) of section 2533a of title 10, United States Code, is amended in paragraph (1)(B) by inserting before the semicolon the following: ''and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof)''.

SEC. 813. THREE-YEAR EXTENSION OF RESTRICTION ON ACQUISITION OF POLYACRYLONITRILE (PAN) CARBON FIBER FROM FOREIGN SOURCES.

The Secretary of Defense shall delay by three years the phase-out of the restriction on acquisition of polyacrylonitrile (PAN) carbon fiber from foreign sources (described in subpart 225.7103 of the Department of Defense supplement to the Federal Acquisition Regulation). In implementing such delay, the Secretary shall revise the appplicable regulations to ensure that such restriction applies to—

(1) solicitations and contracts issued on or before May 31, 2006, for major systems that are not yet in production; and

(2) solicitations and contracts issued during the period beginning June 1, 2006, and ending May 31, 2008, for major systems that are not yet in engineering and manufacturing development.

SEC. 814. GRANT PROGRAM FOR DEFENSE CONTRACTORS TO IMPLEMENT STRATEGIES TO AVOID OUTSOURCING OF JOBS.

(a) GRANT PROGRAM AUTHORIZED.—The Secretary of Defense may make grants under this section for fiscal year 2005 to qualified defense contractor groups for the purposes described in subsection (b).

(b) GRANT PURPOSES.—A grant may be made under this section for the purpose of implementing a strategy to avoid the outsourcing of jobs by a defense contractor, including the following strategies:

(1) Cost-cutting measures.

(2) Retraining programs.

(3) Technology development.

(4) Plant upgrades.

(c) APPLICATION.—A grant may not be awarded under this section unless an application is submitted to, and approved by, the Secretary. Such an application—

(1) shall be submitted by a qualified defense contractor group in such form and manner as the Secretary may require; and

(2) shall contain—

(A) a description of the strategy proposed for avoiding the outsourcing of at least 10 jobs in the performance of a defense contract by the defense contractor concerned; and

(B) such other information as the Secretary may require.

(d) DEFINITIONS.—In this section:

(1) The term ''qualified defense contractor group'', with respect to a defense contractor, is a group or person representing—

(A) management of the contractor;

(B) a labor organization that represents employees of the contractor; or

(C) employees of the contractor.

(2) The term ''outsourcing'', with respect to a defense contract, includes the performance outside the United States of work under the contract.

(e) FEDERAL SHARE.—The Federal share of the costs of the strategy carried out with a grant under this section may not exceed 50 percent.

(f) USE OF DEFENSE INDUSTRIAL CAPABILITIES FUND FOR GRANTS.—(1) Notwithstanding section 814(c) of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108–136; 117 Stat. 1545), amounts in the Defense Industrial Base Capabilities Fund may be used for grants under this section.

(2) For fiscal year 2005, up to $50,000,000 of amounts available in such Fund may be used to carry out this section.

(g) AUTHORIZATION OF FUNDS.—There are authorized to be appropriated to the Defense Industrial Base Capabilities Fund $50,000,000 for purposes of providing grants under this section.

SEC. 815. PREFERENCE FOR DOMESTIC FREIGHT FORWARDING SERVICES.

(a) PREFERENCE.—In the procurement of transportation services described in subsection (b), the Secretary of Defense shall give preference to any freight forwarder that—

(1) certifies to the Department of Defense that it is owned and controlled by citizens of the United States; and

(2) offers services at fair and reasonable rates.

(b) SERVICES COVERED.—Subsection (a) applies to transportation services to, from, or within Iraq or Afghanistan, and warehousing, logistics, or other similar services performed within Iraq or Afghanistan.

Subtitle C—Other Acquisition Matters

SEC. 821. SUSTAINMENT AND MODERNIZATION PLANS FOR EXISTING SYSTEMS WHILE REPLACEMENT SYSTEMS ARE UNDER DEVELOPMENT.

(a) EXISTING SYSTEMS TO BE MAINTAINED WHILE REPLACEMENT SYSTEMS ARE UNDER DEVELOPMENT.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2436 the following new section:

"§ 2437. Development of major defense acquisition programs: sustainment and modernization of system to be replaced

''(a) REQUIREMENT FOR SUSTAINING AND MODERNIZING EXISTING FORCES.—(1) The Secretary of Defense shall require that, whenever a new major defense acquisition program begins development, the defense acquisition authority responsible for that program shall develop a plan (to be known as a sustainment and modernization plan) for the existing system that the system under development is intended to replace. Any such sustainment and modernization plan shall provide for budgeting, sustaining, and modernizing the existing system until the replacement system to be developed under the major defense acquisition program is fielded and assumes the majority responsibility for the mission of the existing system. This section does not apply to a major defense acquisition that reaches initial operational capability before October 1, 2008.

''(2) In this section, the term ''defense acquisition authority'' means the Secretary of a military department or the commander of the United States Special Operations Command.

''(b) SUSTAINMENT AND MODERNIZATION PLAN.—The Secretary of Defense shall require that each sustainment and modernization plan under this section include, at a minimum, the following:

''(1) The milestone schedule for the development of the major defense acquisition program, including low-rate initial production, initial operational capability, full-rate production, full operational capability, and the date when the replacement system assumes the majority responsibility for the mission of the existing system.

''(2) An analysis of the existing system to determine the following:

''(A) A sustainment plan and budget requirements necessary to provide service life extension to the existing system at acceptable reliability and availability rates.

''(B) A modernization plan and budget requirements necessary to maintain mission capability against the relevant threats.

''(C) A modernization plan and budget requirements necessary—

''(i) to transfer mature technologies from the new system or other systems so that the mission capability of the existing system is enhanced against relevant threats; and

''(ii) to provide interoperability with the new system during the period from initial fielding until the new system assumes the majority of responsibility for the mission of the existing system.

''(c) ANNUAL REVIEW.—Each fiscal year, before the submission to Congress of the President's budget for the next fiscal year, the Secretary of Defense shall review the schedule performance of each replacement major defense acquisition program for which a sustainment and modernization plan has been developed under this section to compare that performance with the schedule set forth under subsection (b)(1). If the schedule for the program has changed, then the Secretary shall notify the congressional defense committees of such change.

''(d) EXCEPTIONS.—Subsection (a) shall not apply to a major defense acquisition program if the Secretary of Defense determines that—

''(1) the existing system is no longer relevant to the mission;

''(2) the mission has been eliminated;

''(3) the mission has been consolidated with another mission in such a manner that another existing system can adequately meet the mission requirements; or

''(4) the duration of time until the new system assumes the majority of responsibility for the existing system's mission is sufficiently short so that mission availability, capability, interoperability, and force protection requirements are maintained.

''(e) WAIVER.—The Secretary of Defense may waive the applicability of subsection (a) to a major defense acquisition program if the Secretary determines that, but for such a waiver, the Department would be unable to meet national security objectives. Whenever the Secretary makes such a determination and authorizes such a waiver, the Secretary shall submit notice of such waiver and of the Secretary's determination and the reasons therefor in writing to the congressional defense committees.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2436 the following new item:

''2437. Development of major defense acquisition programs: sustainment and modernization of system to be replaced .''.

(b) APPLICATION TO EXISTING PROGRAMS IN DEVELOPMENT.—Section 2437 of title 10, United States Code, as added by subsection (a), shall apply with respect to a major defense acquisition program that is under development as of the date of the enactment of this Act and is not expected to reach initial operational capability before October 1, 2008. The Secretary of Defense shall require that a sustainment and modernization plan under that section be developed not later than one year after the date of the enactment of this Act for the existing system that the system under development is intended to replace.

SEC. 822. REVIEW AND DEMONSTRATION PROJECT RELATING TO CONTRACTOR EMPLOYEES.

(a) GENERAL REVIEW.—(1) The Secretary of Defense shall conduct a review of policies, procedures, practices, and penalties of the Department of Defense relating to employees of defense contractors for purposes of ensuring that the Department of Defense is in compliance with Executive Order No. 12989 (relating to a prohibition on entering into contracts with contractors that are not in compliance with the Immigration and Nationality Act).

(2) In conducting the review, the Secretary shall—

(A) identify potential weaknesses and areas for improvement in existing policies, procedures, practices, and penalties;

(B) develop and implement reforms to strengthen, upgrade, and improve policies, procedures, practices, and penalties of the Department of Defense and its contractors; and

(C) review and analyze reforms developed pursuant to this paragraph to identify for purposes of national implementation those which are most efficient and effective.

(3) The review under this subsection shall be completed not later than 180 days after the date of the enactment of this Act.

(b) DEMONSTRATION PROJECT.—The Secretary of Defense shall conduct a demonstration project in accordance with this section, in one or more regions selected by the Secretary, for purposes of promoting greater contracting opportunities for contractors offering effective, reliable staffing plans to perform defense contracts that ensure all contract personnel employed for such projects, including management employees, professional employees, craft labor personnel, and administrative personnel, are lawful residents or persons properly authorized to be employed in the United States and properly qualified to perform services required under the contract. The demonstration project shall focus on contracts for construction, renovation, maintenance, and repair services for military installations.

(c) DEMONSTRATION PROJECT PROCUREMENT PROCEDURES.—As part of the demonstration project under subsection (b), the Secretary of Defense shall conduct a competition in which there is a provision in contract solicitations and request for proposal documents to require significant weight or credit be allocated to—

(1) reliable, effective workforce programs offered by prospective contractors that provide background checks and other measures to ensure the contractor is in compliance with the Immigration and Nationality Act; and

(2) reliable, effective project staffing plans offered by prospective contractors that specify for all contract employees (including management employees, professionals, and craft labor personnel) the skills, training, and qualifications of such persons and the labor supply sources and hiring plans or procedures used for employing such persons.

(d) IMPLEMENTATION OF DEMONSTRATION PROJECT.—The Secretary of Defense shall begin operation of the demonstration project required under this section after completion of the review under subsection (a), but in no event later than 270 days after the date of the enactment of this Act.

(e) REPORT ON DEMONSTRATION PROJECT.—Not later than six months after award of a contract under the demonstration project, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a review of the demonstration project and recommendations on the actions, if any, that can be implemented to ensure compliance by the Department of Defense with Executive Order No. 12989.

(f) DEFINITION.—In this section, the term ''military installation'' means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

SEC. 823. DEFENSE ACQUISITION WORKFORCE LIMITATION AND REPORTS.

(a) DEFENSE ACQUISITION AND SUPPORT PERSONNEL LIMITATION.—(1) Effective October 1, 2005, the number of defense acquisition and support personnel in the Department of Defense may not exceed 95 percent of the baseline number.

(2) For purposes of paragraph (1), the baseline number is the number of defense acquisition and support personnel as of October 1, 2004.

(3) All determinations of personnel strengths for purposes of this section shall be on the basis of full-time equivalent positions.

(b) GAO STUDY AND REPORT ON DEFENSE ACQUISITION AND SUPPORT PERSONNEL.—(1) The Comptroller General shall conduct a study of Department of Defense management of defense acquisition and support personnel. The study shall include—

(A) an analysis of the number and structure of defense acquisition and support personnel; and

(B) an assessment of the size, mission, composition, and projected workload requirements of defense acquisition and support personnel.

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study conducted under this subsection not later than March 1, 2005.

(c) DEFENSE ACQUISITION UNIVERSITY STUDY AND REPORT ON DEFENSE ACQUISITION AND SUPPORT PERSONNEL.—(1) The Defense Acquisition University shall conduct a study of all the training programs offered to defense acquisition and support personnel.

(2) The Defense Acquisition University shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study conducted under this subsection not later than March 1, 2005. The report shall include—

(A) the number of individuals currently certified within the field they are working in; and

(B) recommendations on how to improve education and productivity for defense acquisition and support personnel, including recommendations for additional training program requirements.

(d) DEFINITION.—In this section, the term ''defense acquisition and support personnel'' means members of the Armed Forces and civilian personnel (other than civilian personnel who are employed at a maintenance depot) who are assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58, dated January 14, 1992), and any other organization that, as determined by the Secretary, has acquisition as its predominant mission.

SEC. 824. PROVISION OF INFORMATION TO CONGRESS TO ENHANCE TRANSPARENCY IN CONTRACTING.

Upon request of the chairman or ranking member of the Committee on Armed Services of the Senate or House of Representatives, the Secretary of Defense shall provide, with respect to any contract or task or delivery order under a task or delivery order contract entered into by the Department of Defense, within 14 days after receipt of the request, unredacted copies of any documents required to be maintained in the contracting office contract file, the contract administration office contract file, and the paying office contract file pursuant to subpart 4.8 of the Federal Acquisition Regulation, including—

(1) copies of the contract and all modifications;

(2) orders issued under the contract;

(3) justifications and approvals;

(4) any government estimate of contract price;

(5) source selection documentation;

(6) cost or price analysis;

(7) audit reports;

(8) justification for type of contract;

(9) authority for deviations from regulations, statutory requirements, or other restrictions;

(10) bills, invoices, vouchers, and supporting documents; and

(11) records of payments or receipts.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 901. CHANGE IN TITLE OF SECRETARY OF THE NAVY TO SECRETARY OF THE NAVY AND MARINE CORPS.

(a) CHANGE IN TITLE.—The position of the Secretary of the Navy is hereby redesignated as the Secretary of the Navy and Marine Corps.

(b) REFERENCES.—Any reference to the Secretary of the Navy in any law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the Secretary of the Navy and Marine Corps.

SEC. 902. TRANSFER OF CENTER FOR THE STUDY OF CHINESE MILITARY AFFAIRS FROM NATIONAL DEFENSE UNIVERSITY TO UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) TRANSFER.—The Center for the Study of Chinese Military Affairs established by section 914 of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 2165 note) is transferred from the National Defense University of the Department of Defense to the United States-China Economic and Security Review Commission.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 914 of the National Defense Authorization Act for 2000 (10 U.S.C. 2165 note) is amended to read as follows:

''(a) ESTABLISHMENT.—There shall be a Center for the Study of Chinese Military Affairs organized under the United States-China Economic and Security Review Commission established by section 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002).''.

(c) REPEAL OF OBSOLETE PROVISIONS.—Such section is further amended by striking subsections (d) and (e).

(d) TECHNICAL AMENDMENTS TO COMMISSION CHARTER.—(1) Section 1238(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning in 2002)''; and

(B) by adding at the end the following new sentence: ''The report shall include a full discussion of the activities of the Commission under each of the subparagraphs of paragraph (2).''; and

(2) in paragraph (2)—

(A) by striking the matter preceding subparagraph (A) and inserting the following:

''(2) AREAS OF FOCUS.—The Commission shall focus, in lieu of any other area of work or study, on the following:''; and

(B) by replacing subparagraphs (A) through (J) with the text of subparagraphs (A) through (I) of section 2(c)(2) of division P of Public Law 108–7 (22 U.S.C. 7002 note).

(2) Section 2(c)(2) of division P of Public Law 108–7 (22 U.S.C. 7002 note) is repealed.

(e) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 903. TRANSFER TO SECRETARY OF THE ARMY OF RESPONSIBILITY FOR ASSEMBLED CHEMICAL WEAPONS ALTERNATIVES PROGRAM.

Effective January 1, 2005, the text of section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1521 note) is amended to read as follows:

''(a) PROGRAM MANAGEMENT.—(1) The program manager for the Assembled Chemical Weapons Alternatives program shall report to the Secretary of the Army.

''(2) The Secretary of the Army shall provide for that program to be managed as part of the management organization within the Department of the Army specified in section 1412(e) of Public Law 99–145 (50 U.S.C. 1521(e)).

''(b) CONTINUED IMPLEMENTATION OF PREVIOUSLY SELECTED ALTERNATIVE TECHNOLOGIES.—(1) In carrying out the destruction of lethal chemical munitions at Pueblo Chemical Depot, Colorado, the Secretary of the Army shall continue to implement fully the alternative technology for such destruction at that depot selected by the Under Secretary of Defense for Acquisition, Technology, and Logistics on July 16, 2002.

''(2) In carrying out the destruction of lethal chemical munitions at Blue Grass Army Depot, Kentucky, the Secretary of the Army shall continue to implement fully the alternative technology for such destruction at that depot selected by the Under Secretary of Defense for Acquisition, Technology, and Logistics on February 3, 2003.''.

SEC. 904. MODIFICATION OF OBLIGATED SERVICE REQUIREMENTS UNDER NATIONAL SECURITY EDUCATION PROGRAM.

(a) IN GENERAL.—Subsection (b)(2) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by striking subparagraphs (A) and (B), as added by section 925(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1578), and inserting the following:

''(A) in the case of a recipient of a scholarship, as soon as practicable but in no case later than three years after the completion by the recipient of the study for which scholarship assistance was provided under the program, the recipient shall work for a period of one year—

''(i) in a national security position that the Secretary certifies is appropriate to use the unique language and region expertise acquired by the recipient pursuant to such study in the Department of Defense, in any element of the intelligence community, in the Department of Homeland Security, or in the Department of State; or

''(ii) in such a position in any other Federal department or agency not referred to in clause (i) if the recipient demonstrates to the Secretary that no position is available in a Federal department or agency specified in clause (i); or

''(B) in the case of a recipient of a fellowship, as soon as practicable but in no case later than two years after the completion by the recipient of the study for which fellowship assistance was provided under the program, the recipient shall work for a period equal to the duration of assistance provided under the program, but in no case less than one year—

''(i) in a position described in subparagraph (A)(i) that the Secretary certifies is appropriate to use the unique language and region expertise acquired by the recipient pursuant to such study; or

''(ii) in such a position in any other Federal department or agency not referred to in clause (i) if the recipient demonstrates to the Secretary that no position is available in a Federal department or agency specified in clause (i); and''.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out the amendment made by subsection (a). In prescribing such regulations, the Secretary shall establish standards that recipients of scholarship and fellowship assistance under the program under such section 802 are required to demonstrate to satisfy the requirement of a good faith effort to gain employment as required under subparagraphs (A) and (B) of subsection (b)(2) of such section.

(c) APPLICABILITY.—(1) The amendment made by subsection (a) shall apply with respect to service agreements entered into under the David L. Boren National Security Education Act of 1991 on or after the date of the enactment of this Act.

(2) The amendment made by subsection (a) shall not affect the force, validity, or terms of any service agreement entered into under the David L. Boren National Security Education Act of 1991 before the date of the enactment of this Act that is in force as of that date.

SEC. 905. CHANGE OF MEMBERSHIP OF CERTAIN COUNCILS.

(a) MEMBERSHIP OF ARMED FORCES POLICY COUNCIL.—Section 171(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(14) The Commandant of the Coast Guard, for discussion of matters pertaining to the Coast Guard.''.

(b) MEMBERSHIP OF COUNCIL UNDER SECTION 179.—Subsection (a) of section 179 of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4) The Under Secretary of Defense for Policy.''.

(b) CONFORMING AND CLARIFYING AMENDMENTS.—Such subsection is further amended in the matter preceding paragraph (1)—

(1) by striking ''Joint''; and

(2) by striking ''composed of three members as follows:'' and inserting ''operated as a joint activity of the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:''.

(c) OTHER TECHNICAL AND CLARIFYING AMENDMENTS.—Such section is further amended as follows:

(1) Subsection (c)(3)(B) is amended by striking ''appointed'' and inserting ''designated''.

(2) Subsection (e) is amended by striking ''In addition'' and all that follows through ''also'' and inserting ''The Council shall''.

(3) Subsection (f) is amended by striking ''Committee on'' the first place it appears and all that follows through ''Representatives'' and inserting ''congressional defense committees''.

(d) STYLISTIC AMENDMENTS.—Such section is further amended as follows:

(1) Subsection (a) is amended by inserting ''ESTABLISHMENT; MEMBERSHIP.—'' after ''(a)''.

(2) Subsection (b) is amended by inserting ''CHAIRMAN; MEETINGS.—'' after ''(b)''.

(3) Subsection (c) is amended by inserting ''STAFF AND ADMINISTRATIVE SERVICES; STAFF DIRECTOR.—'' after ''(c)''.

(4) Subsection (d) is amended by inserting ''RESPONSIBILITIES.—'' after ''(d)''.

(5) Subsection (e) is amended by inserting ''REPORT ON DIFFICULTIES RELATING TO SAFETY OR RELIABILITY.—'' after ''(e)''.

(6) Subsection (f) is amended by inserting ''ANNUAL REPORT.—'' after ''(f)''.

(e) FURTHER CONFORMING AMENDMENT.—Section 3212(e) of the National Nuclear Security Administration Act (50 U.S.C. 2402(e)) is amended—

(1) by striking ''JOINT'' in the subsection heading; and

(2) by striking ''Joint''.

SEC. 906. ACTIONS TO PREVENT THE ABUSE OF DETAINEES.

(a) POLICIES REQUIRED.—The Secretary of Defense shall prescribe policies regarding procedures for the Armed Forces and other elements of the Department of Defense and contractor personnel of the Department of Defense intended to prevent the conditions leading to acts of abuse of detainees who are held by the United States as part of the Global War on Terrorism. Policies under this subsection shall be prescribed not later than 120 days after the date of the enactment of this Act.

(b) MATTERS TO BE INCLUDED.—In order to achieve the objective stated in subsection (a), the policies on the prevention of abuse of detainees under that subsection shall specify, at a minimum, procedures for the following:

(1) Ensuring that commanders of detention facilities and commanders of interrogation facilities provide all assigned personnel (including contractor personnel) with training, and documented acknowledgement of receiving training, regarding the Geneva Convention Relative to the Treatment of Prisoners of War and established Standing Operating Procedures for the treatment of detainees. Training provided under this paragraph to contractor personnel shall be at least comparable in degree to that provided to members of the Armed Forces.

(2) Providing all detainees with information, in their own language, of the protections afforded under the Geneva Convention Relative to the Treatment of Prisoners of War.

(3) Conducting periodic unannounced and announced inspections of prisons and other areas where detainees are held in order to provide continued oversight of interrogation and detention operations.

(4) Prohibiting contact between male guards and female detainees and between female guards and male detainees, except under exigent circumstances.

(c) REPORTS TO CONGRESS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(1) a copy of the policies prescribed pursuant to subsection (a), immediately after those policies are prescribed; and

(2) a report on the implementation of those policies, not later than one year after the date on which those policies are prescribed.

SEC. 907. RESPONSES TO CONGRESSIONAL INQUIRIES.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 113a the following new section:

''§ 113b. Response to congressional inquiries

''Whenever the Secretary of Defense or any other official of the Department of Defense is requested by the chairman of the Committee on Armed Services of the Senate or the chairman of the Committee on Armed Services of the House of Representatives to respond to a question or inquiry submitted by the chairman or another member of that committee pursuant to a committee hearing or other activity, the Secretary (or other official) shall respond to the request, in writing, within 21 days of the date on which the request is transmitted to the Secretary (or other official).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 113a the following new item:

''113b. Response to congressional inquiries.''.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2005 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,000,000,000. Of such amount, $500,000,000 may be used only for a transfer from an account for an active component to an account for a reserve component, or from an account of a reserve component to an account of an active component, of the same Armed Force.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority provided under section 1522.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. BUDGET JUSTIFICATION DOCUMENTS FOR OPERATION AND MAINTENANCE.

(a) IN GENERAL.—(1) Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 232. Operations and maintenance budget presentation

''(a) IN GENERAL.—In this section

''(1) The term 'O&M justification documents' means Department of Defense budget justification documents with respect to accounts for operation and maintenance submitted to the congressional defense committees in support of the Department of Defense component of the President's budget for any fiscal year.

''(2) The term 'President's budget' means the budget of the President submitted to Congress under section 1105 of title 31 for any fiscal year.

''(3) The term 'current year' means the fiscal year during which the President's budget is submitted in any year.

''(b) IDENTIFICATION OF BASELINE AMOUNTS IN O&M JUSTIFICATION DOCUMENTS.—In any case in which the amount requested in the President's budget for a fiscal year for a Department of Defense operations and maintenance program, project, or activity is different from the amount appropriated for that program, project, or activity for the current year, the O&M justification documents supporting that budget shall identify that appropriated amount and the difference between that amount and the amount requested in the budget, stated as an amount and as a percentage.

''(c) PERSONAL SERVICE CONTRACTS.—In the O&M justification documents for any fiscal year, costs programmed in the budget for that fiscal year for Department of Defense for personal service contracts, and the number of personal service contractors to be used by the Department of Defense during that fiscal year who will be compensated at an annual rate in excess of the annual rate of salary of the Vice President under section 104 of title 3, shall be separately set forth and identified.

''(d) NAVY SUBACTIVITIES FOR SHIP DEPOT MAINTENANCE AND FOR INTERMEDIATE SHIP MAINTENANCE.—In the O&M justification documents for the Navy for any fiscal year, amounts requested for ship depot maintenance and amounts requested for intermediate ship maintenance shall be set forth as separate budget subactivity groups.

''(e) CIVILIAN AVERAGE SALARY COSTS.—In the O&M justification documents for any fiscal year, average civilian salary costs, shown by subactivity group, shall be set forth as a component of the personnel summary exhibit.''.

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

''232. Operations and maintenance budget presentation.''.

(b) COMPONENTS OF LINE ITEMS FOR OTHER COSTS AND OTHER CONTRACTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the component elements of the line items identified as ''Other Costs'' and ''Other Contracts'' in the exhibit identified as ''Summary of Price and Program Changes'' in the budget justification materials submitted to those committees in support of the budget for fiscal year 2006.

SEC. 1003. RETENTION OF FEES FROM INTELLECTUAL PROPERTY LICENSES.

(a) IN GENERAL.—Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2788. Licensing of intellectual property of the military departments; authority to charge and retain fees

''(a) AUTHORITY TO RETAIN FEES.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned by a military department and may retain and expend fees received from such licensing in accordance with subsection (b).

''(2) In this section, the terms 'trademark', 'service mark', 'certification mark', 'collective mark', and 'mark' have the meanings given those terms in section 45 of the Trademark Act of 1946 (15 U.S.C. 1127).

''(b) USE OF LICENSING FEES.—(1) Funds received by a military department from licensing under subsection (a)(1) shall be used for the expenses incurred by the department in securing the registration of marks owned by the department and in licensing those marks.

''(2) If the amount of fees received by a military department during any fiscal year from the licensing of marks exceeds the anticipated expenses under paragraph (1) during that year, the Secretary concerned may designate those funds as excess and expend them as provided in paragraph (3).

''(3) Not more than 50 percent of any such excess funds shall be available for military personnel recruiting and retention activities of the department. The remainder of such funds shall be available for morale, welfare, and recreation activities of the department.

''(4) Funds received pursuant to subsection (a)(1) shall remain available for two years after the end of the fiscal year during which the funds are received.''.

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

''2788. Licensing of intellectual property of the military departments; authority to charge and retain fees.''.

SEC. 1004. AUTHORITY TO WAIVE CLAIMS OF THE UNITED STATES WHEN AMOUNTS RECOVERABLE ARE LESS THAN COSTS OF COLLECTION.

(a) AUTHORITY.—Chapter 165 of title 10, United States Code, is amended by inserting after section 2780 the following new section:

''§ 2780a. Debt collection: general waiver authority for small amounts owed the United States

''(a) AUTHORITY.—In the case of an indebtedness to the United States described in subsection (b) that is for an amount that is less than the threshold amount specified in subsection (c), the Secretary of Defense may, under regulations prescribed under this section, cancel the indebtedness and waive recovery of the amount owed. Such authority may be used only when, based on a cost-benefit analysis, the Secretary determines that the costs of collection are expected to exceed the amount recoverable.

''(b) COVERED DEBTS.—(1) Except as provided in paragraph (2), this section applies with respect to amounts owed to the United States that arise out of the activities of, or that are referred to, the Department of Defense (including amounts owed by members of the armed forces and Department of Defense civilian personnel).

''(2) The authority under this section does not apply to amounts owed to the United States arising out of activities of the Department of Defense that have been referred to another executive agency for collection action or that are otherwise within the purview of another executive agency.

''(c) MAXIMUM AMOUNT WAIVABLE.—The threshold amount referred to in subsection (a) is the micropurchase threshold amount in effect under section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

''(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2780 the following new item:

''2780a. Debt collection: general waiver authority for small amounts owed the United States.''.

SEC. 1005. REPEAL OF FUNDING RESTRICTIONS CONCERNING DEVELOPMENT OF MEDICAL COUNTERMEASURES AGAINST BIOLOGICAL WARFARE THREATS.

(a) REPEAL.—Section 2370a of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking the item relating to that section.

SEC. 1006. REPORT ON BUDGETING FOR EXCHANGE RATES FOR FOREIGN CURRENCY FLUCTUATIONS.

(a) SECRETARY OF DEFENSE REPORT.—(1) Not later than December 1, 2004, the Secretary Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the foreign currency exchange rate projection used in annual Department of Defense budget presentations.

(2) In the report under paragraph (1), the Secretary shall—

(A) identify alternative approaches for selecting foreign currency exchange rates that would produce more realistic estimates of amounts required to be appropriated or otherwise made available for the Department of Defense to accommodate foreign currency exchange rate fluctuations;

(B) address the advantages and disadvantages of each approach identified pursuant to subparagraph (A);

(C) identify the Secretary's preferred approach among the alternatives identified pursuant to subparagraph (A) and provide the Secretary's rationale for preferring that approach.

(3) In identifying alternative approaches pursuant to paragraph (2)(A), the Secretary shall examine—

(A) approaches used by other Federal departments and agencies; and

(B) the feasibility of using private economic forecasting.

(b) COMPTROLLER GENERAL REVIEW AND REPORT.—The Comptroller General of the United States shall review the report under subsection (a), including the basis for the Secretary's conclusions stated in the report, and shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Comptroller General's conclusions with respect to that report. Such report shall be submitted not later than January 15, 2005.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. AUTHORITY FOR AWARD OF CONTRACTS FOR SHIP DISMANTLING ON NET-COST BASIS.

(a) IN GENERAL.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7305 the following new section:

''§ 7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis

''(a) AUTHORITY FOR NET-COST BASIS CONTRACTS.—When the Secretary of the Navy awards a contract for the dismantling of a vessel stricken from the Naval Vessel Register, the Secretary may award the contract on a net-cost basis.

''(b) RETENTION BY CONTRACTOR OF PROCEEDS OF SALE OF SCRAP AND REUSABLE ITEMS.—When the Secretary awards a contract on a net-cost basis under subsection (a), the Secretary shall provide in the contract that the contractor may retain the proceeds from the sale of scrap and reusable items removed from the vessel dismantled under the contract.

''(c) DEFINITIONS.—In this section:

''(1) The term 'net-cost basis', with respect to a contract for the dismantling of a vessel, means that the amount to be paid to the contractor under the contract for dismantling and for removal and disposal of hazardous waste material is discounted by the offeror's estimate of the value of scrap and reusable items that the contractor will remove from the vessel during performance of the contract.

''(2) The term 'scrap' means personal property that has no value except for its basic material content.

''(3) The term 'reusable item' means a demilitarized component or a removable portion of a vessel or equipment that the Secretary of the Navy has identified as excess to the needs of the Navy but which has potential resale value on the open market.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7305 the following new item:

''7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis.''.

SEC. 1012. INDEPENDENT STUDY TO ASSESS COST EFFECTIVENESS OF THE NAVY SHIP CONSTRUCTION PROGRAM.

(a) STUDY.—The Secretary of Defense shall provide for a study, to be conducted by an entity independent of the Department of Defense, of the cost effectiveness of the ship construction program of the Navy. The purpose of the study shall be to examine both—

(1) a variety of approaches by which the Navy ship construction program could be made more efficient in the near term; and

(2) a variety of approaches by which, with a nationally integrated effort over the next decade, the United States shipbuilding industry might be made competitive globally.

(b) NEAR TERM IMPROVEMENTS IN EFFICIENCY.—With respect to the examination under subsection (a)(1) of approaches by which the Navy ship construction program could be made more efficient in the near term, the Secretary shall provide for the entity conducting the study—

(1) to determine, with respect to each approach so examined, the cost savings that could result from implementation of that approach over each of the next 10 years;

(2) to recommend one or more of the approaches examined under subsection (a)(1) for implementation; and

(3) for each approach recommended under paragraph (2) for implementation, to develop a concept and implementation plan by which the recommended improvements could best be phased into the naval ship construction program.

(c) GLOBAL COMPETITIVENESS OF UNITED STATES SHIPBUILDING INDUSTRY.—With respect to the examination under subsection (a)(2) of approaches by which, with a nationally integrated effort over the next decade, the United States shipbuilding industry might be made competitive globally, the Secretary shall provide for the entity conducting the study—

(1) to develop a plan to modernize the United States shipbuilding infrastructure within the next decade in order to make the United States shipbuilding industry more competitive globally; and

(2) to estimate the resources required to carry out a modernization plan developed under paragraph (1).

(d) REPORT.—Not later than June 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report providing the results of the study under subsection (a). The report shall include the matters specified in subsections (b) and (c).

SEC. 1013. AUTHORITY TO TRANSFER SPECIFIED FORMER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) AUTHORITY TO TRANSFER BY GRANT.—The Prsident is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) CHILE.—The ''SPRUANCE'' class destroyer O'BANNON (DD–987) to the Government of Chile.

(2) PORTUGAL.—The ''OLIVER HAZARD PERRY'' class guided missile frigate GEORGE PHILIP (FFG–12) to the Government of Portugal.

(b) AUTHORITY TO TRANSFER BY SALE.—The President is authorized to transfer on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) the ''ANCHORAGE'' class dock landing ship ANCHORAGE (LSD–36) to the Taipei Economic and Cultural Representative Office in the United States (which is the

Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j (e)) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1014. LIMITATION ON LEASING OF FOREIGN-BUILT VESSELS.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2401a the following new section:

"§2401b. Limitation on lease of foreign-built vessels

''(a) LIMITATION.—The Secretary of a military department may not make a contract for a lease or charter of a vessel for a term of more than 12 months (including all options to renew or extend the contract) if the hull, a major component of the hull, or superstructure of the vessel is constructed in a foreign shipyard.

''(b) PRESIDENTIAL WAIVER FOR NATIONAL SECURITY INTEREST.—(1) The President may authorize exceptions to the limitation in subsection (a) when the President determines that it is in the national security interest of the United States to do so.

''(2) The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date on which the notice of the determination is received by Congress.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401a the following new item:

''2401b. Limitation on lease of foreign-built vessels.''.

(b) EFFECTIVE DATE.—Section 2401b of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the date of the enactment of this Act.

Subtitle C—Sunken Military Craft

SEC. 1021. PRESERVATION OF TITLE TO SUNKEN MILITARY CRAFT AND ASSOCIATED CONTENTS.

Right, title, and interest of the United States in and to any United States sunken military craft shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

SEC. 1022. PROHIBITIONS.

(a) UNAUTHORIZED ACTIVITIES DIRECTED AT SUNKEN MILITARY CRAFT.—No person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

(1) as authorized by a permit under this subtitle;

(2) as authorized by regulations issued under this subtitle; or

(3) as otherwise authorized by law.

(b) POSSESSION OF SUNKEN MILITARY CRAFT.—No person may possess, disturb, remove, or injure any sunken military craft in violation of—

(1) this section; or

(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable Federal, foreign, or other law.

(c) LIMITATIONS ON APPLICATION.—

(1) ACTIONS BY UNITED STATES.—This section shall not apply to actions taken by, or at the direction of, the United States.

(2) FOREIGN PERSONS.—This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

(A) generally recognized principles of international law;

(B) an agreement between the United States and the foreign country of which the person is a citizen; or

(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

(3) LOAN OF SUNKEN MILITARY CRAFT.—This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

SEC. 1023. PERMITS.

(a) IN GENERAL.—The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1022 with respect to a United States military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

(b) CONSISTENCY WITH OTHER LAWS.—The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

(c) CONSULTATION.—In carrying out this section (including the issuance after the date of the enactment of this Act of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.

SEC. 1024. PENALTIES.

(a) IN GENERAL.—Any person who violates this subtitle, or any regulation or permit issued under this subtitle, shall be liable to the United States for a civil penalty under this section.

(b) ASSESSMENT AND AMOUNT.—The Secretary concerned may assess a civil penalty under this section, after notice and an opportunity for a hearing, of not more than $100,000 for each violation.

(c) CONTINUING VIOLATIONS.—Each day of a continued violation of this subtitle or a regulation or permit issued under this subtitle shall constitute a separate violation for purposes of this section.

SEC. 1025. LIABILITY FOR DAMAGES.

(a) IN GENERAL.—Any person who engages in an activity in violation of section 1022 or any regulation or permit issued under this subtitle that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.

(b) INCLUDED DAMAGES.—Damages referred to in subsection (a) may include—

(1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1022 or any regulation or permit issued under this subtitle; and

(2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.

SEC. 1026. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this subtitle, nothing in this subtitle is intended to affect—

(1) any activity that is not directed at a sunken military craft; or

(2) the traditional high seas freedoms of navigation, including—

(A) the laying of submarine cables and pipelines;

(B) operation of vessels;

(C) fishing; or

(D) other internationally lawful uses of the sea related to such freedoms.

(b) INTERNATIONAL LAW.—This subtitle and any regulations implementing this subtitle shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

(c) LAW OF FINDS.—The law of finds shall not apply to any United States sunken military craft, wherever located.

(d) LAW OF SALVAGE.—No salvage rights or awards shall be granted with respect to any sunken military craft without the express permission of the United States.

(e) LAW OF CAPTURE OR PRIZE.—Nothing in this subtitle is intended to alter the international law of capture or prize with respect to sunken military craft.

(f) LIMITATION OF LIABILITY.—Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes (46 U.S.C. App. 181 et seq.) or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; 46 U.S.C. App. 192), shall limit the liability of any person under this section.

(g) AUTHORITIES OF THE COMMANDANT OF THE COAST GUARD.—Nothing in this subtitle is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.

(h) PRIOR DELEGATIONS, AUTHORIZATIONS, AND RELATED REGULATIONS.—Nothing in this subtitle shall invalidate any prior delegation, authorization, or related regulation that is consistent with this subtitle.

(i) CRIMINAL LAW.—Nothing in this subtitle is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.

SEC. 1027. ENCOURAGEMENT OF AGREEMENTS WITH FOREIGN COUNTRIES.

The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this subtitle.

SEC. 1028. DEFINITIONS.

In this subtitle:

(1) ASSOCIATED CONTENTS.—The term ''associated contents'' means—

(A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and

(B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of a military department.

(3) SUNKEN MILITARY AIRCRAFT.—The term ''sunken military aircraft'' means any sunken military aircraft that was owned or operated by the United States when it sank.

(4) SUNKEN MILITARY CRAFT.—The term ''sunken military craft'' means any sunken military vessel, sunken military aircraft, or associated contents, or any portion thereof, the title to

which has not been abandoned or transferred in a manner prescribed by the United States.

(5) SUNKEN MILITARY VESSEL.—The term ''sunken military vessel'' means any sunken warship or naval auxiliary of the United States that is a public vessel as that term is used in the Act of March 3, 1925 (chapter 428; 46 U.S.C. App. 781 et seq.), popularly known as the Public Vessels Act.

(6) UNITED STATES CONTIGUOUS ZONE.—The term ''United States contiguous zone'' means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999.

(7) UNITED STATES INTERNAL WATERS.—The term ''United States internal waters'' means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

(8) UNITED STATES TERRITORIAL SEA.—The term ''United States territorial sea'' means the waters of the United States territorial sea under Presidential Proclamation 5928, dated December 27, 1988.

(9) UNITED STATES WATERS.—The term ''United States waters'' means United States internal waters, the United States territorial sea, and the United States contiguous zone.

Subtitle D—Counter-Drug Activities

SEC. 1031. CONTINUATION OF AUTHORITY TO USE DEPARTMENT OF DEFENSE FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—During fiscal years 2005 and 2006, the Secretary of Defense may use funds made available to the Department of Defense for drug interdiction and counter-drug activities to provide assistance to the Government of Colombia—

(1) to support a unified campaign against narcotics trafficking in Colombia;

(2) to support a unified campaign against activities by designated terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC); and

(3) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) RELATION TO OTHER ASSISTANCE AUTHORITY.—The authority provided by subsection (a) is in addition to other provisions of law authorizing the provision of assistance to the Government of Colombia.

SEC. 1032. LIMITATION ON NUMBER OF UNITED STATES MILITARY PERSONNEL IN COLOMBIA.

(a) LIMITATION.—None of the funds available to the Department of Defense for any fiscal year may be used to support or maintain more than 500 members of the Armed Forces on duty in the Republic of Colombia at any time.

(b) EXCLUSION OF CERTAIN MEMBERS.—For purposes of determining compliance with the limitation in subsection (a), the Secretary of Defense may exclude the following military personnel:

(1) A member of the Armed Forces in the Republic of Colombia for the purpose of rescuing or retrieving United States military or civilian Government personnel, except that the period for which such a member may be so excluded may not exceed 30 days unless expressly authorized by law.

(2) A member of the Armed Forces assigned to the United States Embassy in Colombia as an attaché, as a member of the security assistance office, or as a member of the Marine Corps security contingent.

(3) A member of the Armed Forces in Colombia to participate in relief efforts in responding to a natural disaster.

(4) Nonoperational transient military personnel.

(5) A member of the Armed Forces making a port call from a military vessel in Colombia.

Subtitle E—Reports

SEC. 1041. STUDY OF CONTINUED REQUIREMENT FOR TWO-CREW MANNING FOR BALLISTIC MISSILE SUBMARINES.

(a) STUDY AND DETERMINATION.—The Secretary of Defense shall conduct a study of whether the practice of using two alternating crews (referred to as the ''Gold Crew'' and the ''Blue Crew'') for manning of ballistic missile submarines (SSBNs) continues to be justified under the changed circumstances since the end of the Cold War and, based on that study, shall make a determination of whether that two-crew manning practice should be continued or should be modified or terminated.

(b) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing notice of the Secretary's determination under subsection (a) and the reasons for that determination.

SEC. 1042. STUDY OF EFFECT ON DEFENSE INDUSTRIAL BASE OF ELIMINATION OF UNITED STATES DOMESTIC FIREARMS MANUFACTURING BASE.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing in detail the effect on both military readiness and the defense industrial base that would result from the elimination of the United States domestic firearms manufacturing base.

SEC. 1043. STUDY OF EXTENT AND QUALITY OF TRAINING PROVIDED TO MEMBERS OF THE ARMED SERVICES TO PREPARE FOR POST-CONFLICT OPERATIONS.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the extent to which members of the Armed Forces assigned to duty in support of contingency operations receive training in preparation for post-conflict operations and to evaluate the quality of such training

(b) MATTERS INCLUDED IN STUDY.—As part of the study under subsection (a), the Secretary shall specifically evaluate the following:

(1) The doctrine, training, and leader-development system necessary to enable members of the Armed Forces to successfully operate in post-conflict operations.

(2) The adequacy of curricula at military educational facilities to ensure that the Armed Forces has a cadre of members skilled in post-conflict duties, foreign languages, and foreign cultures.

(3) The training time and resources available to members and units to develop cultural awareness about ethnic backgrounds, religious beliefs, and political loyalties of the people living in areas in which the Armed Forces operate.

(4) The organization of the combatant commands to conduct post-conflict operations.

(c) SUBMISSION OF STUDY RESULTS.—Not later than March 15, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the study conducted under this section.

Subtitle F—Security Matters

SEC. 1051. USE OF NATIONAL DRIVER REGISTER FOR PERSONNEL SECURITY INVESTIGATIONS AND DETERMINATIONS.

Section 30305(b) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (9) through (11) as paragraphs (10) through (12), respectively; and

(2) by inserting after paragraph (8) the following new paragraph:

''(9) An individual who has or is seeking access to national security information for purposes of Executive Order 12968, or any successor Executive order, or an individual who is being investigated for Federal employment under authority of Executive Order 10450, or any successor Executive order, may request the chief driver licensing official of a State to provide information about the individual pursuant to subsection (a) of this section to a Federal department or agency that is authorized to investigate the individual for the purpose of assisting in the determination of the eligibility of the individual for access to national security information or for Federal employment. A Federal department or agency that receives such information about an individual may use it in accordance with applicable law.''.

SEC. 1052. STANDARDS FOR DISQUALIFICATION FROM ELIGIBILITY FOR DEPARTMENT OF DEFENSE SECURITY CLEARANCE .

(a) DISQUALIFIED PERSONS.—Subsection (c)(1) of section 986 of title 10, United States Code, is amended—

(1) by striking ''and'' and inserting '', was''; and

(2) and inserting before the period at the end the following: '', and was incarcerated as a result of that sentence for not less than one year''.

(b) WAIVER AUTHORITY.—Subsection (d) of such section is amended to read as follows:

''(d) WAIVER AUTHORITY.—In a meritorious case, an exception to the prohibition in subsection (a) may be authorized for a person described in paragraph (1) or (4) of subsection (c) if there are mitigating factors. Any such waiver may be authorized only in accordance with standards and procedures prescribed by, or under the authority of, an Executive order or other guidance issued by the President.''.

Subtitle G—Transportation-Related Matters

SEC. 1061. USE OF MILITARY AIRCRAFT TO TRANSPORT MAIL TO AND FROM OVERSEAS LOCATIONS.

(a) AUTHORITY FOR USE OF MILITARY AIRCRAFT.—Section 3401 of title 39, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1)(A), by striking ''title 49,'' and inserting ''title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers,''; and

(B) in the sentence following paragraph (3), by striking ''carriers'' each place it appears and inserting ''carriers and military aircraft''; and

(2) in subsection (c)—

(A) in the first sentence, by striking ''title 49,'' and inserting ''title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers,''; and

(B) in the second sentence—

(i) by inserting ''and military aircraft'' after ''carriers'' the first place it appears; and

(ii) by striking ''by air carriers other than scheduled United States air carriers'' and inserting ''by other than scheduled United States air carriers and military aircraft''.

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

''(g) In this section, the term 'military aircraft' means an aircraft owned, operated, or chartered by the Department of Defense.''.

SEC. 1062. REORGANIZATION AND CLARIFICATION OF CERTAIN PROVISIONS RELATING TO CONTROL AND SUPERVISION OF TRANSPORTATION WITHIN THE DEPARTMENT OF DEFENSE.

(a) TRANSFER OF CERTAIN TRANSPORTATION AUTHORITIES.—Sections 4744, 4745, 4746, and 4747 of title 10, United States Code, are transferred to chapter 157 of such title, inserted (in that order) at the end of such chapter, and redesignated as sections 2648, 2649, 2650, and 2651, respectively.

(b) CLARIFICATION OF APPLICABILITY OF TRANSFERRED AUTHORITIES THROUGHOUT THE DEPARTMENT OF DEFENSE.—(1) Section 2648 of such title, as transferred and redesignated by subsection (a), is amended—

(A) by striking ''Secretary of the Army'' in the matter preceding paragraph (1) and inserting ''Secretary of Defense'';

(B) by striking ''Army transport agencies'' in the matter preceding paragraph (1) and all that follows through ''military transport agency of''; and

(C) by striking paragraphs (1), (2), and (3);

(D) by redesignating paragraph (4), (5), (6), and (7) as paragraphs (1), (2), (3), and (4), respectively;

(E) by redesignating paragraph (8) as paragraph (5) and in that paragraph striking ''persons described in clauses (1), (2), (4), (5), and (7)'' and inserting ''members of the armed forces, officers and employees of the Department of Defense or the Coast Guard, and persons described i paragraphs (1), (2), and (4)''; and

(F) by striking ''clause (7) or (8)'' in the last sentence and inserting ''paragraph (4) or (5)''.

(2) Section 2649 of such title, as transferred and redesignated by subsection (a), is amended—

(A) by striking the section heading and inserting the following:

''§ 2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels'';

(B) by striking ''(1) on vessels'' and all that follows through ''Department of the Army'';

(C) by striking ''any transport agency of''; and

(D) by striking ''Secretary of the Army'' and all that follows through ''be transported'' and inserting ''Secretary of Defense, be transported''.

(3) Section 2650 of such title, as transferred and redesignated by subsection (a), is amended—

(A) in the matter preceding paragraph (1), by striking ''Army transport agencies'' and all that follows through ''military transport agency of'';

(B) in paragraph (1), by striking ''Secretary of the Army'' and inserting ''Secretary of Defense''; and

(C) in paragraph (4), by striking ''by air—'' and all that follows through ''the transportation cannot'' and inserting ''by air, the transportation cannot''.

(4) Section 2651 of such title, as transferred and redesignated by subsection (a), is amended by striking ''Army transport agencies'' and all that follows and inserting ''the Department of Defense, under regulations and at rates to be prescribed by the Secretary of Defense.''.

(c) REPEAL OF SUPERSEDED AND OBSOLETE PROVISIONS.—The following sections of such title are repealed: sections 4741, 4743, 9741, 9743, and 9746.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 157 of such title is amended by adding at the end the following new items:

''2648. Persons and supplies: sea transportation.
''2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels.
''2650. Civilian personnel in Alaska.
''2651. Passengers and merchandise to Guam: sea transport.''.

(2) The table of sections at the beginning of chapter 447 of such title is amended by striking the items relating to sections 4741, 4743, 4744, 4745, 4746, and 4747.

(3) The table of sections at the beginning of chapter 947 of such title is amended by striking the items relating to sections 9741, 9743, and 9746.

SEC. 1063. DETERMINATION OF WHETHER PRIVATE AIR CARRIERS ARE CONTROLLED BY UNITED STATES CITIZENS FOR PURPOSES OF ELIGIBILITY FOR GOVERNMENT CONTRACTS FOR TRANSPORTATION OF PASSENGERS OR SUPPLIES.

Section 2710 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 601), is amended by adding at the end the following new sentence: ''Any determination for purposes of this section of whether (in accordance with the first proviso of this section) an air carrier is effectively controlled by citizens of the United States shall be made by, or shall be based on determinations made by, the Secretary of Transportation.''.

SEC. 1064. EVALUATION OF WHETHER TO PROHIBIT CERTAIN OFFERS FOR TRANSPORTATION OF SECURITY-SENSITIVE CARGO.

(a) EVALUATION REQUIREMENT.—The Secretary of Defense shall evaluate whether, and under what circumstances, in the award of service contracts for domestic freight transportation for security-sensitive cargo (such as arms, ammunitions, explosive, and classified material), the Secretary should not consider an offer or tender from more than one motor carrier that is part of a group of motor carriers under common financial or administrative control. In conducting the evaluation, the Secretary shall seek industry comment.

(b) REPORT.—Not later than January 1, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the results of the evaluation conducted under subsection (a).

Subtitle H—Other Matters

SEC. 1071. TWO-YEAR EXTENSION OF AUTHORITY OF THE SECRETARY OF DEFENSE TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES ABROAD.

Section 431(a) of title 10, United States Code, is amended by striking ''December 31, 2004'' and inserting ''December 31, 2006''.

SEC. 1072. ASSISTANCE FOR STUDY OF FEASIBILITY OF BIENNIAL INTERNATIONAL AIR TRADE SHOW IN THE UNITED STATES AND FOR INITIAL IMPLEMENTATION.

(a) ASSISTANCE FOR COMMUNITY FEASIBILITY STUDY.—(1) The Secretary of Defense shall provide assistance to a community selected under subsection (d) for expenses of a study by that community of the feasibility of the establishment and operation of a biennial international air trade show in the area of that community.

(2) The Secretary shall provide for the community to submit to the Secretary a report containing the results of the study not later than September 30, 2005. The Secretary shall promptly submit the report to Congress, together with such comments on the report as the Secretary considers appropriate.

(b) ASSISTANCE FOR IMPLEMENTATION.—If the community conducting the study under subsection (a) determines that the establishment and operation of such an air show is feasible and should be implemented, the Secretary shall provide assistance to the community for the initial expenses of implementing such an air show in the selected community.

(c) AMOUNT OF ASSISTANCE.—The amount of assistance provided by the Secretary under subsections (a) and (b)—

(1) may not exceed a total of $1,000,000, to be derived from amounts available for operation and maintenance for the Air Force for fiscal year 2005 or later fiscal years; and

(2) may not exceed one-half of the cost of the study and may not exceed one-half the cost of such initial implementation.

(d) SELECTION OF COMMUNITY.—The Secretary shall select a community for purposes of subsection (a) through the use of competitive procedures. In making such selection, the Secretary shall give preference to those communities that already sponsor an air show, have demonstrated a history of supporting air shows with local resources, and have a significant role in the aerospace community. The community shall be selected not later than March 1, 2005.

SEC. 1073. TECHNICAL AND CLERICAL AMENDMENTS.

(a) CLARIFICATION OF DEFINITION OF ''OPERATIONAL RANGE''.—Section 101(e)(3) of title 10, United States Code, is amended by striking ''Secretary of Defense'' and inserting ''Secretary of a military department''.

(b) AMENDMENTS RELATING TO DEFINITION OF CONGRESSIONAL DEFENSE COMMITTEES.—

(1) Chapter 169 of such title is amended as follows:

(A) Paragraph (4) of section 2801(c) is amended to read as follows:

''(4) The term 'congressional defense committees' includes, with respect to any project to be carried out by, or for the use of, an intelligence component of the Department of Defense—

''(A) the Permanent Select Committee on Intelligence of the House of Representatives; and

''(B) the Select Committee on Intelligence of the Senate.''.

(B) The following sections are amended by striking ''appropriate committees of Congress'' each place it appears and inserting ''congressional defense committees'': sections 2803(b), 2804(b), 2805(b)(2), 2806(c)(2), 2807(b), 2807(c), 2808(b), 2809(f)(1), 2811(d), 2812(c)(1)(A), 2813(c), 2814(a)(2)(A), 2814(g)(1), 2825(b)(1), 2827(b), 2828(f), 2835(g), 2836(f), 2837(c)(2), 2853(c)(2), 2854(b), 2854a(c)(1), 2865(e)(2), 2866(c)(2), 2875(e), 2881a(d)(2), 2881a(e), 2883(f), and 2884(a).

(2) Section 2215 is amended—

(A) by striking ''(a) CERTIFICATION REQUIRED.—'';

(B) by striking ''congressional committees specified in subsection (b)'' and inserting ''congressional defense committees''; and

(C) by striking subsection (b).

(3) Section 2306b(g) is amended by striking ''Committee on'' the first place it appears and all that follows through ''House of Representatives'' and inserting ''congressional defense committees''.

(4) Section 2515(d) is amended—

(A) by striking ''(1)'' before ''The Secretary'';

(B) by striking ''congressional committees specified in paragraph (2)'' and inserting ''congressional defense committees''; and

(C) by striking paragraph (2).

(5) Section 2676(d) is amended by striking ''appropriate committees of Congress'' at the end of the first sentence and inserting ''congressional defense committees''.

(6) Section 2694a is amended by striking ''appropriate committees of Congress'' in subsections (e) and (i)(1) and inserting ''congressional defense committees''.

(c) AMENDMENTS RELATING TO DEFINITION OF BASE CLOSURE LAWS.—

(1) Section 2694a(i) of title 10, United States Code, is amended by striking paragraph (2).

(2) Paragraph (1) of section 1333(i) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2701 note) is amended to read as follows:

''(1) BASE CLOSURE LAW.—The term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.''.

(3) Subsection (b) of section 2814 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 10 U.S.C. 2687 note) is amended to read as follows:

''(b) BASE CLOSURE LAW DEFINED.—In this section, the term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.''.

(4) Subsection (c) of section 3341 of title 5, United States Code, is amended to read as follows:

''(c) For purposes of this section, the term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10.''.

(5)(A) Paragraph (1) of section 554(a) of title 40, United States Code, is amended to read as follows:

''(1) BASE CLOSURE LAW.—The term 'base closure law' has the meaning given that term in section 101(a)(17) of title 10.''.

(B) Subparagraph (B) of section 572(b)(1) of title 40 is amended to read as follows:

''(B) BASE CLOSURE LAW.—The term 'base closure law' has the meaning given that term in section 101(a)(17) of title 10.''.

(d) DEFINITION OF STATE FOR PURPOSES OF SECTION 2694A.—Subsection (i) of section 2694a of title 10, United States Code, as amended by subsections (b)(6) and (c)(1), is further amended—

(1) by inserting after paragraph (1) the following new paragraph (2):

''(2) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.''; and

(2) by striking paragraph (4).

(e) MISCELLANEOUS AMENDMENTS TO TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, are amended by striking ''481'' in the item relating to chapter 23 and inserting ''480''.

(2) Section 130a is amended—

(A) by striking ''Effective October 1, 2002, the'' in subsection (a) and inserting ''The'';

(B) by striking ''baseline number'' in subsection (a) and all that follows through ''means the'' in subsection (c);

(C) by transferring subsection (e) so as to appear before subsection (d) and redesignating that subsection as subsection (b);

(D) by redesignating subsections (d) and (f) as subsection (c) and (d), respectively; and

(E) by striking subsection (g).

(3) Section 437(c) is amended by inserting ''(50 U.S.C. 415b)'' after ''National Security Act of 1947''.

(4) Section 487(d) is amended by striking ''OTHER DEFINITIONS'' and inserting ''INAPPLICABILITY TO COAST GUARD''.

(5) Section 503(c)(1)(B) is amended by striking ''education'' in the second sentence and inserting ''educational''.

(6) Section 632(c)(1) is amended—

(A) by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(B) by striking ''under that paragraph'' and inserting ''under that subsection''.

(7) The item relating to section 1076b in the table of sections at the beginning of chapter 55 is amended to read as follows:

''1076b. TRICARE program: coverage for members of the Ready Reserve.''.

(8) Section 1108(e) is amended by striking ''heath'' and inserting ''health''.

(9) Section 1406(g) is amended—

(A) by striking ''section 305'' and inserting ''section 245''; and

(B) by inserting ''(33 U.S.C. 3045)'' after ''of 2002''.

(10) Sections 1448(b)(1)(F), 1448(d)(2)(B), 1448(d)(6)(A), and 1458(j) are amended by striking ''on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004'' and inserting ''after November 23, 2003,''.

(11) Sections 1463(a), 1465(c)(1)(A), 1465(c)(1)(B), 1465(c)(4)(A), 1465(c)(4)(B), and 1466(b)(2)(D) are amended by striking ''1413, 1413a,'' and inserting ''1413a''.

(12) Section 1557(b) is amended ''Effective October 1, 2002, final'' and inserting ''Final''.

(13) Section 1566 is amended—

(A) in subsection (g)(2), by striking ''the date that is 6 months after the date of the enactment of the Help America Vote Act of 2002'' in the last sentence and inserting ''April 29, 2003''; and

(B) in subsections (h), (i)(1), and (i)(3), by striking ''Armed Forces'' and inserting ''armed forces''.

(14) Sections 1724(d) and 1732(d)(1) are amended by striking ''its decision'' in the second sentence and inserting ''the decision of the Secretary''.

(15) Section 1761(b) is amended—

(A) in the matter preceding paragraph (1), by striking ''provide for—'' and inserting ''provide for the following:'';

(B) in paragraphs (1), (2), and (3), by capitalizing the first letter of the first word;

(C) at the end of paragraphs (1) and (2), by striking the semicolon and inserting a period;

(D) at the end of paragraph (3), by striking ''; and'' and inserting a period; and

(E) by striking paragraph (4).

(16) Section 2193b(c)(2) is amended by striking ''the date of the enactment of this section'' and inserting ''October 5, 1999''.

(17) Section 2224(c) is amended in the matter preceding paragraph (1) by striking ''subtitle II of chapter 35'' and inserting ''subchapter II of chapter 35''.

(18) Section 2349(d) is amended by striking ''section 2350a(i)(3)'' and inserting ''section 2350a(i)(2)''.

(19) Section 2350b(g) is amended—

(A) in the matter preceding paragraph (1), by inserting ''the Secretary of Defense'' after ''authorizing''; and

(B) in paragraph (1), by striking ''the Secretary of Defense''.

(20) Section 2540(b)(2) is amended by inserting '', as in effect on that date'' before the period at the end.

(21) Section 2662(a)(2) is amended—

(A) in the first sentence, by striking ''must include a summarization'' and inserting ''shall include a summary''; and

(B) in the second sentence, by inserting ''of paragraph (1)'' after ''in subparagraph (E)''.

(22) Section 2672a(a) is amended—

(A) in the matter preceding paragraph (1), by inserting ''in any case in which the Secretary determines'' after ''in land'';

(B) in paragraph (1), by striking ''the Secretary determines'' and inserting ''the acquisition''; and

(C) in paragraph (2), by inserting ''the acquisition'' after ''(2)''.

(23) Section 2701 is amended—

(A) in subsection (a)(2), by inserting ''(42 U.S.C. 9620)'' before the period at the end;

(B) in subsection (c)(2), by striking ''of CERCLA (relating to settlements)'' and inserting ''(relating to settlements) of CERCLA (42 U.S.C. 9622)'';

(C) in subsection (e), by inserting ''(42 U.S.C. 9619)'' after ''CERCLA''; and

(D) in subsection (j)(2), by striking ''the Comprehensive'' and all the follows through ''of 1980'' and inserting ''CERCLA''.

(24) Section 2702 is amended by inserting ''(42 U.S.C. 9660(a)(5))'' in the second sentence of subsection (a) before the period at the end.

(25) Section 2703(b) is amended by striking ''The terms'' at the beginning of the second sentence and inserting ''For purposes of the preceding sentence, the terms''.

(26) Section 2704 is amended by inserting ''(42 U.S.C. 9604(i))'' in subsections (c), (e), and (f) after ''CERCLA''.

(27) The second section 3755, added by section 543(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2549), is redesignated as section 3756, and the item relating to that section in the table of sections at the beginning of chapter 357 is revised to reflect such redesignation.

(28) Section 4689 is amended by striking ''Building'' after ''Capitol''.

(29) The second section 6257, added by section 543(c)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2549), is redesignated as section 6258, and the item relating to that section in the table of sections at the beginning of chapter 567 is revised to reflect such redesignation.

(30) Section 7102 is amended—

(A) by striking ''AUTHORITY'' at the beginning of subsection (a) and inserting ''MASTER OF MILITARY STUDIES'';

(B) by striking ''MARINE CORPS WAR COLLEGE'' at the beginning of subsection (b) and inserting ''MASTER OF STRATEGIC STUDIES'';

(C) by striking ''COMMAND AND STAFF COLLEGE OF THE MARINE CORPS UNIVERSITY'' at the beginning of subsection (c) and inserting ''MASTER OF OPERATIONAL STUDIES''; and

(D) by striking ''subsections (a) and (b)'' in subsection (d) and inserting ''this section''.

(31) Section 8084 is amended by striking ''capabilty'' and inserting ''capability''.

(32) The second section 8755, added by section 543(d)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2550), is redesignated as section 8756, and the item relating to that section in the table of sections at the beginning of chapter 857 is revised to reflect such redesignation.

(33) The table in section 12012(a) is amended by inserting a colon after ''Air National Guard''.

(f) TITLE 37, UNITED STATES CODE.—Section 323(h) of title 37, United States Code, is amended by striking ''Secretary of Transportation'' and inserting ''Secretary of Homeland Security''.

(g) PUBLIC LAW 108–136.—Effective as of November 24, 2003, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) is amended as follows:

(1) Sections 832(a) and 834(a) (117 Stat. 1550) are each amended by striking ''such title'' and inserting ''title 10, United States Code,''

(2) Section 931(a)(1) (117 Stat. 1580) is amended by striking ''and donations'' in the first quoted matter and inserting ''or donations''.

(3) Section 2204(b) (117 Stat. 1706) is amended by striking ''section 2101(a)'' each place it appears and inserting ''section 2201(a)''.

(h) PUBLIC LAW 107–314.—Effective as of December 2, 2002, and as if included therein as enacted, section 1064(a)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2654) is amended by inserting ''the item relating to'' after ''is amended by inserting after''.

(i) PUBLIC LAW 101–510.—Section 2902(e)(2)(B) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) in clause (i), by striking ''Subcommittee on Readiness, Sustainability, and Support'' and inserting ''Subcommittee on Readiness and Management Support''; and

(2) in clause (ii), by striking ''Subcommittee on Military Installations and Facilities'' and inserting ''Subcommittee on Readiness''.

(j) NATIONAL SECURITY ACT OF 1947.—Sections 702(a)(6)(B)(iv)(I), 703(a)(6)(B)(iv)(I), and 704(f)(2)(D)(i) of the National Security Act of 1947 are amended by striking ''responsible records'' and inserting ''responsive records''.

(k) CODIFICATION RELATING TO LEAVE FOR ATTENDANCE AT CERTAIN HEARINGS.—Subsection (b) of section 363 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (10 U.S.C. 704 note) is—

(1) transferred to section 704 of title 10, United States Code;

(2) inserted at the end of that section;

(3) redesignated as subsection (c); and

(4) amended—

(A) by striking ''Armed Forces'' each place it appears and inserting ''armed forces'';

(B) in paragraph (1)—

(i) by striking ''Secretary of each'' and all that follows through ''in the Navy,'' and inserting ''Secretary concerned''; and

(ii) by striking ''(as defined in section 101 of title 10, United States Code)''; and

(C) in paragraph (3)—

(i) by striking ''For purposes of this subsection—'' and inserting ''In this subsection:'';

(ii) in subparagraph (A), by striking ''title 10, United States Code'' and inserting ''this title''; and

(iii) in subparagraph (B), by striking ''such term'' and inserting ''that term''.

SEC. 1074. COMMISSION ON THE LONG-TERM IMPLEMENTATION OF THE NEW STRATEGIC POSTURE OF THE UNITED STATES.

(a) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the ''Commission on the Long-Term Implementation of the New Strategic Posture of the United States''. The Secretary of Defense shall enter into a contract with a federally funded research and development center to provide for the organization, management, and support of the Commission. Such contract shall be entered into in consultation with the Secretary of Energy.

(2) COMPOSITION.—(A) The Commission shall be composed of 12 members who shall be appointed by the Secretary of Defense. In selecting individuals for appointment to the Commission, the Secretary of Defense shall consult with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

(B) Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political, military, operational, and technical aspects of nuclear strategy.

(3) CHAIRMAN OF THE COMMISSION.—The Secretary of Defense shall designate one of the members of the Commission to serve as chairman of the Commission.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(5) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(b) DUTIES OF COMMISSION.—

(1) REVIEW OF LONG-TERM IMPLEMENTATION OF THE NUCLEAR POSTURE REVIEW.—The Commission shall examine long-term programmatic requirements to achieve the goals set forth in the report of the Secretary of Defense submitted to Congress on December 31, 2001, providing the results of the Nuclear Posture Review conducted pursuant to section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654, 1654A–262) and results of periodic assessments of the Nuclear Posture Review. Matters examined by the Commission shall include the following:

(A) The process of establishing requirements for strategic forces and how that process accommodates employment of nonnuclear strike platforms and munitions in a strategic role.

(B) How strategic intelligence, reconnaissance, and surveillance requirements differ from nuclear intelligence, reconnaissance, and surveillance requirements.

(C) The ability of a limited number of strategic platforms to carry out a growing range of nonnuclear strategic strike missions.

(D) The limits of tactical systems to perform nonnuclear global strategic missions in a prompt manner.

(E) An assessment of the ability of the current nuclear stockpile to address the evolving strategic threat environment through 2025.

(2) RECOMMENDATIONS.—The Commission shall include in its report recommendations with respect to the following:

(A) Changes to the requirements process to employ nonnuclear strike platforms and munitions in a strategic role.

(B) Changes to the nuclear stockpile and infrastructure required to preserve a nuclear capability commensurate with the changes to the strategic threat environment through 2025.

(C) Actions the Secretary of Defense and the Secretary of Energy can take to preserve flexibility of the defense nuclear comples while reducing the cost of a Cold War strategic infrastructure.

(D) Identify shortfalls in the strategic modernization programs of the United States that would undermine the ability of the United States to develop new nonnuclear strategic strike capabilities.

(3) COOPERATION FROM GOVERNMENT OFFICIALS.—(A) In carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Secretary of Energy, and any other United States Government official in providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

(B) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission.

(c) REPORTS.—

(1) COMMISSION REPORT.—The Commission shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives a report on the Commission's findings and conclusions. Such report shall be submitted not later that 28 months after the date of the first meeting of the Commission.

(2) SECRETARY OF DEFENSE RESPONSE.—Not later than one year after the date on which the Commission submits its report under paragraph (1), the Secretary of Defense shall submit to Congress a report—

(A) commenting on the Commission's findings and conclusions; and

(B) explaining what actions, if any, the Secretary intends to take to implement the recommendations of the Commission and, with respect to each such recommendation, the Secretary's reasons for implementing, or not implementing, the recommendation.

(d) HEARINGS AND PROCEDURES.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out the purposes of this section, hold hearings and take testimony.

(2) PROCEDURES.—The federally funded research and development center with which a contract is entered into under subsection (a)(1) shall be responsible for establishing appropriate procedures for the Commission.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) FUNDING.—Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense.

(f) TERMINATION OF COMMISSION.—The Commission shall terminate 60 days after the date of the submission of its report under subsection (c)(1).

(g) IMPLEMENTATION.—

(1) FFRDC CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a)(1) not later that 60 days after the date of the enactment of this Act.

(2) FIRST MEETING.—The Commission shall convene its first meeting not later than 60 days after the date as of which all members of the Commission have been appointed.

SEC. 1075. LIABILITY PROTECTION FOR CERTAIN DEPARTMENT OF DEFENSE VOLUNTEERS WORKING IN THE MARITIME ENVIRONMENT.

(a) AUTHORITY TO ACCEPT CERTAIN VOLUNTEER SERVICES.—Subsection (a) of section 1588 of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(8) Voluntary services provided to the United States Military Academy, United States Naval Academy, and United States Air Force Academy for the training of cadets and midshipmen.''.

(b) LIABILITY PROTECTION FOR VOLUNTEERS IN MARITIME ENVIRONMENT.—Subparagraph (D) of subsection (d)(1) of such section is amended—

(1) by striking ''and'' after ''this title'' and inserting a comma; and

(2) by inserting before the period at the end the following: '', and chapters 20 and 22 of title 46 (relating to claims for damages or loss on navigable waters)''.

SEC. 1076. TRANSFER OF HISTORIC F3A-1 BREWSTER CORSAIR AIRCRAFT.

(a) AUTHORITY TO CONVEY.—The Secretary of the Navy may convey, without consideration, to Lex Cralley, of Princeton Minnesota (in this section referred to as ''transferee''), all right, title and interest of the United States in and to a F3A-1 Brewster Corsair aircraft (Bureau Number 04634). The conveyance shall be made by means of a deed of gift.

(b) CONDITION OF AIRCRAFT.—The aircraft shall be conveyed under subsection (a) in its current unflyable, ''as is'' condition. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) CONVEYANCE AT NO COST TO THE UNITED STATES.—The conveyance of the aircraft under subsection (a) shall be made at no cost to the United States. Any costs associated with the conveyance and costs of operation and maintenance of the aircraft conveyed shall be borne by the transferee.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

SEC. 1101. PAYMENT OF FEDERAL EMPLOYEE HEALTH BENEFIT PREMIUMS FOR MOBILIZED FEDERAL EMPLOYEES.

(a) AUTHORITY TO CONTINUE BENEFIT COVERAGE.—Section 8905a of title 5, United States Code is amended—

(1) in subsection (a), by striking ''paragraph (1) or (2) of'';

(2) in subsection (b)—

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

(B) in paragraph (2)(C), by striking the period at the end and inserting ''; and''; and

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

''(3) any employee who—

''(A) is enrolled in a health benefits plan under this chapter;

''(B) is a member of a Reserve component of the armed forces;

''(C) is called or ordered to active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10);

''(D) is placed on leave without pay or separated from service to perform active duty; and

''(E) serves on active duty for a period of more than 30 consecutive days.''; and

(4) in subsection (e)(1)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

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

''(C) in the case of an employee described in subsection (b)(3), the date which is 24 months after the employee is placed on leave without pay or separated from service to perform active duty.''.

(b) AUTHORITY FOR AGENCIES TO PAY PREMIUMS.—Subparagraph (C) of section 8906(e)(3) of such title is amended by striking ''18 months'' and inserting ''24 months''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to Federal employees called or ordered to active duty on or after September 14, 2001.

SEC. 1102. FOREIGN LANGUAGE PROFICIENCY PAY.

Section 1596a of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking ''during a contingency operation supported by the armed forces''; and

(2) in subsection (c), by inserting before the period at the end the following: ''and shall not be considered base pay for any purpose''.

SEC. 1103. PAY PARITY FOR CIVILIAN INTELLIGENCE PERSONNEL.

Section 1602 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ''in relation to the rates of pay provided in subpart D of part III of title 5 for positions subject to that subpart which have corresponding levels of duties and responsibilities'' and inserting ''in relation to the rates of pay provided for Department of Defense Senior Executive, Senior Level, and other comparable positions''; and

(2) by amending subsection (b) to read as follows:

''(b) PERFORMANCE APPRAISAL SYSTEM.—The positions referred to in subsection (a) shall be subject to a performance appraisal system which, as designed and applied, is certified by the Secretary of Defense as making meaningful distinctions based on relative performance and may be the same performance appraisal system established and implemented within the Department for members of the Senior Executive Service.''.

SEC. 1104. PAY PARITY FOR SENIOR EXECUTIVES IN NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1599e. Senior executive compensation for nonappropriated fund instrumentalities

''Notwithstanding any provisions of title 5, the Secretary of Defense may regulate the amount of total compensation, including the rate of basic pay, of senior executives employed by Department of Defense nonappropriated fund instrumentalities, to provide for parity with the total compensation, including basic pay, of Department of Defense employees in the Senior Executive Service and other similar senior executive positions.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1599d the following new item:

''1599e. Senior executive compensation for nonappropriated fund instrumentalities.''.

SEC. 1105. PROHIBITION OF UNAUTHORIZED WEARING OR USE OF CIVILIAN MEDALS OR DECORATIONS.

Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1134. Civilian medals or decorations of the Department of Defense

''(a) PROHIBITION.—Except with the written permission of the Secretary of Defense or when authorized by regulations, no person may knowingly—

''(1) wear; or

''(2) use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity;

medals, decorations, or other insignia awarded by the Secretary of Defense to recognize Department of Defense civilian employees and other individuals who render service to the Department of Defense.

''(b) AUTHORITY TO ENJOIN VIOLATIONS.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, including imposing a civil penalty not to exceed $25,000 for each violation, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.''.

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

''1134. Civilian medals or decorations of the Department of Defense.''

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Relating to Iraq, Afghanistan, and Global War on Terrorism

SEC. 1201. DOCUMENTATION OF CONDITIONS IN IRAQ UNDER FORMER DICTATORIAL GOVERNMENT AS PART OF TRANSITION TO POST-DICTATORIAL GOVERNMENT.

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

(1) The regime of Saddam Hussein in Iraq was a dictatorial regime prone to secrecy in the maintenance of its hold on power.

(2) The people of Iraq all suffered as a result of Saddam Hussein's dictatorial control.

(3) Efforts in other post-dictatorial states to document the crimes and abuses of their predecessor dictatorial governments have contributed to the process of national reconciliation and have served as a reminder about the importance of protecting individual rights.

(b) TRANSFER OF CERTAIN DOCUMENTS AND RECORDS.—The Secretary of Defense shall, to the extent practicable, establish a process for expeditiously transferring to indigenous Iraqi entities committed to documenting publicly the nature of the Saddam Hussein regime any documents and records described in subsection (c) that are obtained by United States military forces in Iraq.

(c) COVERED DOCUMENTS AND RECORDS.—The documents and records referred to in subsection (b) are documents and records—

(1) that were created by—

(A) the Government of Iraq between 1968 and May 1, 2003; or

(B) the Ba'ath Socialist Party in Iraq after 1968; and

(2) that provide insight into—

(A) the functioning of the Government of Iraq or the Ba'ath Socialist Party in Iraq; or

(B) the crimes, atrocities, and brutal practices of the Iraqi government towards the people of Iraq during the period between 1968 and May 1, 2003.

SEC. 1202. SUPPORT OF MILITARY OPERATIONS TO COMBAT TERRORISM.

(a) AUTHORITY.—The Secretary of Defense may expend up to $25,000,000 during any fiscal year during which this subsection is in effect to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing military operations by United States special operations forces to combat terrorism.

(b) INTELLIGENCE ACTIVITIES.—This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(c) ANNUAL REPORT.—Not later than 30 days after the close of each fiscal year during which subsection (a) is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on support provided under this section during that fiscal year. Each such report shall describe the support provided, including a statement of the recipient of the support and the amount obligated to provide the support.

(d) FISCAL YEAR 2005 LIMITATION.—Support may be provided under subsection (a) during fiscal year 2005 only from funds made available for operations and maintenance pursuant to title XV of this Act.

(e) PERIOD OF AUTHORITY.—The authority under subsection (a) is in effect during each of fiscal years 2005 through 2007.

SEC. 1203. COMMANDERS' EMERGENCY RESPONSE PROGRAM.

(a) FISCAL YEAR 2005 AUTHORITY.—During fiscal year 2005, from funds made available to the Department of Defense for operation and maintenance pursuant to title XV of this Act, not to exceed $300,000,000 may be used, notwithstanding any other provision of law, to provide funds for the Commanders' Emergency Response Program, established by the Administrator of the Coalition Provisional Authority for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to provide funds for a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—The Secretary of Defense shall submit to the congressional defense committees a quarterly report, beginning on January 15, 2005, regarding the source of funds and the allocation and use of funds made available pursuant to the authorityprovided in this section.

SEC. 1204. STATUS OF IRAQI SECURITY FORCES.

(a) STRATEGIC PLAN.—No later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a strategic plan setting forth the manner in which the United States will achieve the goal of establishing viable and professional Iraqi security forces able to provide for the long-term security of the Iraqi people.

(b) COMPONENTS.—The strategic plan established under subsection (a) shall include at least the following:

(1) Recruiting and retention goals, shown for each service of the Iraqi security forces.

(2) Training plans for each service of the Iraqi security forces.

(3) A description of metrics by which progress toward the goal of Iraqi provision for its own security can be measured.

(4) A description of equipment needs, shown for each service of the Iraqi security forces.

(5) A resourcing plan for achieving the goals of the strategic plan.

(6) Personnel plans in terms of United States military and contractor personnel to be used in training each such service.

(7) A description of challenges faced and opportunities presented in particular regions of Iraq and a plan for addressing those challenges.

(8) A discussion of training and deployment successes and failures to the date of the report and how lessons from those successes and failures will be incorporated into the strategic plan.

(c) SUBSEQUENT REPORTS.—Ninety days following the submission of the strategic plan to Congress under subsection (a) and every 90 days thereafter, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on progress toward meeting the goals established in the strategic plan. Each such report shall address the following:

(1) The number of forces recruited, currently serving, and that have left (along with a breakdown of the reasons for leaving) by service over the period in question.

(2) Progress in meeting training goals.

(3) Progress in achieving other metrics as identified in the strategic plan.

(4) A description and analysis of any training incidents and deployment successes and failures, with a discussion of how those incidents and successes will affect future efforts to achieve the goals of the strategic plan.

(d) IRAQI SECURITY FORCES DEFINED.—In this section, the term ''Iraqi security forces'' means the Iraqi Armed Forces (IAF), the Iraqi Civil Defense Corps (ICDC), the Iraqi Police Service

(IPS), the Department of Border Enforcement (DBE), and the Facilities Protection Services (FCS).

SEC. 1205. GUIDANCE AND REPORT REQUIRED ON CONTRACTORS SUPPORTING DEPLOYED FORCES IN IRAQ.

(a) GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance on how to manage contractors that support deployed forces and shall direct the Secretaries of the military departments to develop procedures to ensure implementation of the guidance. The guidance shall—

(1) establish policies for the use of contractors to support deployed forces;

(2) delineate the roles and responsibilities of commanders regarding the management and oversight of contractors that support deployed forces; and

(3) integrate into a single document other guidance and doctrine that may affect Department of Defense responsibilities to contractors in locations where members of the Armed Forces are deployed.

(b) REPORT.—Not later than 30 days after issuing the guidance required under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report containing a discussion of the following:

(1) A description of the process used by the Department of Defense for deciding which security functions in Iraq will be performed by military personnel and which by private security companies.

(2) A discussion of the overall chain of command and oversight mechanisms that are in place to ensure adequate command and supervision of contractor personnel in critical security roles.

(3) An explanation of the rules of engagement for private security personnel throughout Iraq, along with how training in these rules of engagement is being carried out.

(4) A description of mechanisms that exist or that are under consideration to share intelligence and standardize communications procedures among private security companies.

(5) Casualty and fatality figures for each contractor in Iraq supporting deployed forces over the period beginning on May 1, 2003, and ending on the date of the issuance of the guidance.

(6) Disciplinary or criminal actions brought against such contractors during the period covered by the report.

(7) Any incidents of note in Iraq regarding such contractors during the period covered by the report.

(8) A plan for establishing and implementing a process for collecting data on individual contractors, the value of the contracts, and the number of personnel in Iraq performing the following services:

(A) Personal security details.

(B) Non-military site security.

(C) Non-military convoy security.

(D) Interrogation services at interrogation centers operated by the Department of Defense.

SEC. 1206. FINDINGS AND SENSE OF CONGRESS CONCERNING ARMY SPECIALIST JOSEPH DARBY.

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

(1) The need to act in accord with one's conscience, risking one's career and even the esteem of one's colleagues by pursuing what is right is especially important today.

(2) While the Department of Defense investigate the horrific abuses in American detention facilities in Iraq, the Nation should bear in mind that the abuses were only brought to light because of the courage of an American soldier.

(3) By alerting his superiors to abuses at Abu Ghraib prison in Iraq, Army Specialist Joseph Darby demonstrated the courage to speak out and do what is right for his country.

(4) Such an action is especially important in light of the many challenges facing the country.

(5) Specialist Darby deserves the Nation's thanks for speaking up and for standing up for what is right.

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

(1) the Secretary of Defense should make every protection available to Army Specialist Joseph Darby and others who demonstrate such courage; and

(2) Specialist Darby should be commended appropriately by the Secretary of the Army.

Subtitle B—Other Matters

SEC. 1211. ASSIGNMENT OF ALLIED NAVAL PERSONNEL TO SUBMARINE SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 631 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7234. Submarine safety programs: participation of allied naval personnel

''(a) ACCEPTANCE OF ASSIGNMENT OF FOREIGN NAVAL PERSONNEL.—In order to facilitate the development, standardization, and interoperability of submarine vessel safety and rescue systems and procedures, the Secretary of the Navy may conduct a program under which members of the naval service of any of the member nations of the North Atlantic Treaty Organization and Australia, Japan, the Republic of Korea, and Sweden may be assigned to United States commands to work on such systems and procedures.

''(b) COSTS FOR FOREIGN PERSONNEL.—(1) The United States may not pay the following costs for a member of a foreign naval service sent to the United States under the program authorized by this section:

''(A) Salary.

''(B) Per diem.

''(C) Cost of living.

''(D) Travel costs.

''(E) Cost of language or other training.

''(F) Other costs.

''(2) Paragraph (1) does not apply to the following costs, which may be paid by the United States:

''(A) The cost of temporary duty directed by the United States Navy.

''(B) The cost of training programs conducted to familiarize, orient, or certify members of foreign naval services regarding unique aspects of their assignments.

''(C) Costs incident to the use of the facilities of the United States Navy in the performance of assigned duties.

''(d) APPLICABILITY TO AUTHORITY TO ENTER INTO AGREEMENTS.—The requirements of this section shall apply in the exercise of any authority of the Secretary of the Navy to enter into an agreement with the government of a foreign country, subject to the concurrence of the Secretary of State, to provide for the assignment of members of the naval service of the foreign country to a United States Navy submarine safety program.

''(e) REGULATIONS.—The Secretary of the Navy may prescribe regulations for the application of this section in the exercise of authority referred to in subsection (d).''.

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

''7234. Submarine safety programs: participation of allied naval personnel.''.

SEC. 1212. EXPANSION OF ENTITIES OF THE PEOPLE'S REPUBLIC OF CHINA SUBJECT TO CERTAIN PRESIDENTIAL AUTHORITIES WHEN OPERATING IN THE UNITED STATES.

Section 1237(b)(4)(B)(i) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note) is amended by inserting after ''the People's Liberation Army'' the following: '', by a ministry of the government of the People's Republic of China, or by an entity affiliated with the defense industrial base of the People's Republic of China''.

SEC. 1213. REPORT BY PRESIDENT ON GLOBAL PEACE OPERATIONS INITIATIVE.

Not later than one year after the date of the enactment of this Act, the President shall submit to the Congress a report on the Global Peace Operations Initiative. The report shall include the following elements:

(1) A summary of the goals of the Global Peace Operations Initiative and the timetable for achieving those goals.

(2) An examination of the mechanisms by which the United States will ensure that foreign countries acquiring new capabilities as a result of that Initiative will use those capabilities to the national security benefit of the United States.

(3) An examination of the mechanisms by which the United States will ensure that training and equipment provided under that Initiative are used solely for the purposes of peacekeeping and peace enforcement operations.

(4) An examination of the human rights practices of potential recipients under that Initiative, to include a discussion of each potential recipient's commitment to representative government.

(5) As assessment of the financial resources required to carry out that Initiative during fiscal years 2005 through 2009.

(6) An assessment of the effectiveness of the program of the Department of State referred to as the African Contingency Operations and Training Assistance program and the capacity of that program to be expanded.

(7) A review that compares and contrasts the basic military skills required of warfighters and the skills needed for peacekeeping and peace enforcement operations.

(8) An assessment of the ability of military forces in the developing world to absorb, retain, and use the advanced skills and capabilities needed for effective peacekeeping and peace enforcement operations.

(9) A proposal for providing sufficient resources to the Department of State to conduct the Global Peace Operations Initiative without significant financial contributions from the Department of Defense.

(10) An explanation of the reasons of the Administration for proposing to exempt the Global Peace Operations Initiative from existing law related to the type of military and police training the United States may provide to foreign countries.

(11) An examination of the costs and benefits of transferring responsibility for the training and equipping of foreign military and security forces from the Department of State to the Department of Defense, including an identification of any increased resources that will be provided to the Department of Defense should the Department of Defense become responsible for that activity.

SEC. 1214. PROCUREMENT SANCTIONS AGAINST FOREIGN PERSONS THAT TRANSFER CERTAIN DEFENSE ARTICLES AND SERVICES TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) DECLARATION OF POLICY.—Congress declares that it is the policy of the United States to deny the People's Republic of China such defense goods and defense technology that could be used to threaten the United States or undermine the security of Taiwan or the stability of the Western Pacific region.

(b) PROCUREMENT SANCTION.—(1) The Secretary of Defense may not procure, by contract or otherwise, any goods or services from—

(A) any foreign person the Secretary of Defense determines has, with actual knowledge, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to governmental or nongovernmental entities of the People's Republic of China any item or class of items on the United States Munitions List (or any item or class of items that are identical, substantially identical, or directly competitive to an item or class of items on the United States Munitions List); and

(B) any foreign person the Secretary of Defense determines—

(i) is a successor entity to a person referred to in paragraph (1);

(ii) is a parent or subsidiary of a person referred to in paragraph (1); or

(iii) is an affiliate of a person referred to in paragraph (1) if that affiliate is controlled in fact by such person.

(2) The prohibition under paragraph (1) with respect to a foreign person shall last for a period of five years after a determination is made by the Secretary of Defense with respect to that person under paragraph (1)(A).

(c) PUBLIC AVAILABILITY OF LIST OF SANCTIONED PERSONS.—(1) The Secretary of Defense shall annually publish in the Federal Register a current list of any foreign persons sanctioned under subsection (b). The removal of foreign persons from, and the addition of foreign persons to, the list shall also be so published.

(2) The Secretary shall maintain the list published under paragraph (1) on the Internet website of the Department of Defense.

(d) REMOVAL FROM LIST OF SANCTIONED PERSONS.—The Secretary of Defense may remove a person from the list of sanctioned persons referred to in subsection (c) only after the five-year prohibition period imposed under subsection (b) with respect to the person has expired.

(e) EXCEPTIONS.—(1) Subsection (b) shall not apply—

(A) to contracts, or subcontracts under such contracts, in existence on the date of the enactment of this Act, including options under such contracts;

(B) if the Secretary of Defense determines in writing that the person to which the sanctions would otherwise be applied is a sole source supplier of the goods or services being procured, that the goods or services are essential, and that alternative sources are not readily or reasonably available;

(C) in the case of a contract for routine servicing and maintenance, if the Secretary of Defense determines in writing alternative sources for performing the contract are not readily or reasonably available; or

(D) if the Secretary of Defense determines in writing that goods or services proposed to be procured under the contract are essential to the national security of the United States.

(2) Determinations under paragraph (1) shall be published in the Federal Register.

(f) DEFINITIONS.—In this section:

(1) The term ''foreign person'' has the meaning given the term in section 14 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701).

(2) The term ''United States Munitions List'' means the list referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2005 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term ''fiscal year 2005 Cooperative Threat Reduction funds'' means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the amount authorized to be appropriated to the Department of Defense for fiscal year 2005 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $58,522,000.

(2) For nuclear weapons transportation security in Russia, $26,284,000.

(3) For nuclear weapons storage security in Russia, $48,720,000.

(4) For activities designated as Other Assessments/Administrative Support, $14,267,000.

(5) For defense and military contacts, $8,000,000.

(6) For chemical weapons destruction in Russia, $158,400,000.

(7) For biological weapons proliferation prevention in the former Soviet Union, $55,013,000.

(8) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $40,030,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2005 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2005 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2005 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. TEMPORARY AUTHORITY TO WAIVE LIMITATION ON FUNDING FOR CHEMICAL WEAPONS DESTRUCTION FACILITY IN RUSSIA.

(a) TEMPORARY AUTHORITY.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) shall not apply if the President submits to Congress a written certification that includes—

(1) a statement as to why a waiver of the conditions described in such section 1305 is important to the national security interests of the United States;

(2) a full and complete justification for the waiver of the conditions; and

(3) a plan to promote a full and accurate disclosure by Russia regarding the size, content, status, and location of its chemical weapons stockpile.

(b) EXPIRATION.—The authority in subsection (a) shall expire on September 30, 2005.

TITLE XIV—EXPORT CONTROLS AND COUNTERPROLIFERATION MATTERS

Subtitle A—Export Control Matters

SEC. 1401. DEFINITIONS UNDER ARMS EXPORT CONTROL ACT.

Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(1) in paragraph (10)—

(A) by moving the margin two ems to the left; and

(B) by striking ''and'' at the end;

(2) in paragraph (11)—

(A) by moving the margin two ems to the left; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(12) 'license' means a document bearing the word license issued by the United States Government agency charged with implementing section 38 of this Act, which permits the export or import of a defense article or defense service;

''(13) 'agent' means a representative or emissary of a government other than an officer or employee of the government; and

''(14) 'exporting agent' means a freight forwarder or other consignee designated on a license application who is authorized to act on behalf of and the control of the license applicant.''.

SEC. 1402. EXEMPTION FROM LICENSING REQUIREMENTS FOR EXPORT OF SIGNIFICANT MILITARY EQUIPMENT.

Section 38(b)(2) of the Arms Export Control Act (22 U.S.C. 2778(b)(2)) is amended—

(1) by striking ''(2) Except'' and inserting ''(2)(A) Except'';

(2) by striking ''(A) for official'' and inserting ''(i) for official'' and further by striking ''(B) for carrying out'' and inserting ''(ii) for carrying out''; and

(3) by adding at the end the following:

''(B) The President may not establish an exemption in regulation or otherwise from the license requirements of this section for the export of a defense article that is significant military equipment (other than a firearm that is intended for personal use).''.

SEC. 1403. COOPERATIVE PROJECTS WITH FRIENDLY FOREIGN COUNTRIES.

Section 27 of the Arms Export Control Act (22 U.S.C. 2767) is amended—

(1) in subsection (g) to read as follows:

''(g) Unless the President states in his certification that an emergency exists which requires the immediate approval of the cooperative agreement in the national security interests of the United States (in which case the President shall set forth in the certification a justification for this determination), an agreement shall not be signed if, within the 30-day period specified in subsection (f), a joint resolution prohibiting the agreement is enacted into law.''; and

(2) by adding at the end the following:

''(k) A license shall be required for the export of defense articles or defense services relating to a cooperative project by any person required to be registered under section 38(b)(1)(A)(i) whenever such export is made pursuant to, or in furtherance of, a private contract, purchase order, or similar commercial arrangement with a foreign corporation.''.

SEC. 1404. LICENSING REQUIREMENT FOR EXPORT OF MILITARILY CRITICAL TECHNOLOGIES.

(a) LICENSING REQUIREMENT.—The President shall require a license under the Export Administration Regulations of the Department of Commerce (15 C.F.R. part 730 et seq.) or the International Traffic in Arms Regulations (22 C.F.R. part 120 et seq.), as the case may be, for the export of goods or technologies included on the Militarily Critical Technologies List.

(b) DEFINITION.—In this section, the term ''Militarily Critical Technologies List'' means the list required to be developed by the Secretary of Defense pursuant to section 5(d)(2) of the Export Administration Act of 1979 (50 U.S.C. App.

2404(d)(2)), as such list was effect on January 20, 2004, and includes any goods or technologies that have been added to the list after that date.

SEC. 1405. CONTROL OF EXPORTS OF UNITED STATES WEAPONS TECHNOLOGY TO THE PEOPLE'S REPUBLIC OF CHINA.

A dual use good or technology subject to the jurisdiction of the Export Administration Regulations of the Department of Commerce (15 C.F.R. part 730 et seq.) and a defense article or defense service subject to the jurisdiction of the International Traffic in Arms Regulations (22 C.F.R. part 120 et seq.) may be exported to a foreign person or a foreign country that has previously exported any such item to the military, intelligence, police, or internal security services of the Government of the People's Republic of China that would be prohibited for export to China if subject to United States export control laws only if—

(1) a license for such export is approved under the Export Administration Regulations or the International Traffic in Arms Regulations and the Secretary of Defense concurs in the approval of such license; and

(2) the foreign person or foreign country agrees in writing not to transfer title to or possession of, or otherwise provide access to, the licensed items, unless the President provides written consent thereto.

SEC. 1406. STRENGTHENING INTERNATIONAL EXPORT CONTROLS.

(a) FINDING.—The Congress recognizes that the international export control system, as currently constituted, is insufficient to achieve the national security interests of the United States.

(b) NATIONAL EXPORT CONTROL POLICY.—It is the policy of the United States to seek continued negotiations of a strengthened international export control system for the control of arms and militarily-sensitive goods and technology to countries of concern.

(c) PRESIDENTIAL REPORTING REQUIREMENT.—(1) Not later than 180 days after the date of the enactment of this Act, and every six months thereafter, the President shall submit to the committees referred to in subsection (d) a report setting forth the President's plan for effecting a strengthened international export control system capable of achieving the national security interests of the United States.

(2) The report shall include—

(A) an evaluation of the effectiveness of the current international export control system;

(B) a plan for negotiating and implementing a strengthened international export control system capable of achieving the national security interests of the United States; and

(C) challenges to and progress in negotiating and implementing that plan.

(d) COMMITTEES; CLASSIFICATION OF REPORT.—(1) The report required by subsection (c) shall be submitted to—

(A) the Committee on Armed Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Banking, Housing and Urban Affairs, and the Select Committee on Intelligence of the Senate.

(2) The report shall be submitted in unclassified form and, as necessary, in classified form.

Subtitle B—Counterproliferation Matters

SEC. 1411. DEFENSE INTERNATIONAL COUNTERPROLIFERATION PROGRAMS.

(a) INTERNATIONAL SECURITY PROGRAM TO PREVENT UNAUTHORIZED TRANSFER AND TRANSPORTATION OF WMDS.—Subsection (b) of section 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2333) is amended to read as follows:

''(b) OTHER COUNTRIES.—The Secretary of Defense may carry out programs under subsection (a) in a country other than a country specified in that subsection if the Secretary determines that there exists in that country a significant threat of the unauthorized transfer and transportation of nuclear, biological, or chemical weapons or related materials.''.

(b) INTERNATIONAL TRAINING PROGRAM TO DETER WMD PROLIFERATION.—Section 1504(e)(3)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2918) is amended—

(1) by striking ''The training program referred to in paragraph (1)(B) is a'' and inserting 'The Secretary of Defense may participate in a'';

(2) by inserting ''of'' after ''acquisition'';

(3) by striking ''and'' after ''countries''; and

(4) by inserting before the period at the end the following: '', and in other countries in which, as determined by the Secretary of Defense, there exists a significant threat of such proliferation and acquisition''.

SEC. 1412. DEFENSE COUNTERPROLIFERATION FELLOWSHIP PROGRAM.

(a) PROGRAM AUTHORIZED.—Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2015. Defense counterproliferation fellowship program

''(a) PROGRAM AUTHORITY.—The Secretary of Defense may carry out a program under which foreign military defense personnel are selected to attend Department of Defense courses and programs in counterproliferation and nonproliferation matters in order to improve the ability of the foreign military defense personnel to contribute to halting the illicit acquisition or transportation of weapons of mass destruction or of materials that support the development or use of such weapons.

''(b) AUTHORITY TO PAY FOR COSTS OF PARTICIPANTS.—The Secretary of Defense may pay for all costs (including transportation, travel, and subsistence costs) associated with the attendance by a participant at courses and programs in the program under this section.

''(c) PARTICIPANTS.—(1) The following persons may be selected for participation in the program under this section:

''(A) Foreign military officers.

''(B) Foreign ministry of defense officials.

''(2) Participants in the program shall be selected by the Secretary of Defense based upon recommendations made by the commanders of the regional unified combatant commands.

''(d) AUTHORIZED PROGRAM ACTIVITIES.—Participants in the program may be selected for attendance at, and may be authorize to attend, any of the following:

''(1) Department of Defense professional military educational institutions.

''(2) Regional centers for security studies of the Department of Defense.

''(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of the program under this section.''.

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

''2015. Defense counterproliferation fellowship program.''.

Subtitle C—Initiatives Relating to Countries of Former Soviet Union

SEC. 1421. SILK ROAD INITIATIVE.

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

(1) A number of independent states of the former Soviet Union have been helpful to the United States in the war on terrorism.

(2) Such states are new and struggling democracies and would benefit considerably from assistance to create sustainable jobs for their underemployed or unemployed scientists, engineers, and technicians who were formerly engaged in activities to develop and produce weapons of mass destruction for the Russian Federation or other such state.

(b) POLICIES.—(1) It is the policy of the United States to seek to establish and promote programs to prevent the proliferation, from scientists, engineers, and technicians of the Russian Federation and other independent states of the former Soviet Union to countries of proliferation concern, of expertise to develop and produce weapons of mass destruction.

(2) It is also the policy of the United States to seek to assist independent states of the former Soviet Union that have been helpful to the United States in the war on terrorism so as to promote the creation of jobs that foster economic stability and democracy.

(c) PROGRAM AUTHORIZED.—(1) The Secretary of Energy may carry out a program, to be known as the Silk Road Initiative, to promote non-weapons-related employment opportunities in the United States and in Silk Road nations for scientists, engineers, and technicians formerly engaged in activities to develop and produce weapons of mass destruction in Silk Road nations. The program should—

(A) incorporate best practices under the former Initiatives for Proliferation Prevention program; and

(B) facilitate commercial partnerships between private entities in the United States and scientists, engineers, and technicians in the Silk Road nations.

(2) Before implementing the program with respect to multiple Silk Road nations, the Secretary of Energy shall carry out a pilot program with respect to one Silk Road nation selected by the Secretary. It is the sense of Congress that the Secretary should select the Republic of Georgia.

(d) SILK ROAD NATIONS DEFINED.—In this section, the Silk Road nations are Armenia, Azerbaijan, the Republic of Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(e) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for nonproliferation and international security for fiscal year 2005, $10,000,000 may be used to carry out this section.

SEC. 1422. TELLER-KURCHATOV NONPROLIFERATION FELLOWSHIPS.

(a) IN GENERAL.—(1) From amounts made available to carry out this section, the Administrator for Nuclear Security may carry out a program under which the Administrator awards, to scientists employed at the Kurchatov Institute of the Russian Federation and scientists employed at Lawrence Livermore National Laboratory, international exchange fellowships, to be known as Teller-Kurchatov Nonproliferation Fellowships, in the nuclear nonproliferation sciences.

(2) The purpose of the program shall be to provide opportunities for advancement in the field of nuclear nonproliferation to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in that field.

(3) A fellowship awarded to a scientist under the program shall be for study and training at (and, where appropriate, at an institution of higher education in the vicinity of)—

(A) the Kurchatov Institute, in the case of a scientist employed at Lawrence Livermore National Laboratory; and

(B) Lawrence Livermore National Laboratory, in the case of a scientist employed at the Kurchatov Institute.

(4) The duration of a fellowship under the program may not exceed two years, except that the Administrator may provide for a longer duration in an individual case to the extent warranted by extraordinary circumstances, as determined by the Administrator.

(5) In a calendar year, the Administrator may not award more than—

(A) one fellowship to a scientist employed at the Kurchatov Institute; and

(B) one fellowship to a scientist employed at Lawrence Livermore National Laboratory.

(6) A fellowship under the program shall include—

(A) travel expenses;

(B) any tuition and fees at an institution of higher education for study or training under the fellowship; and

(C) any other expenses that the Administrator considers appropriate, such as room and board.

(b) DEFINITIONS.—In this section:

(1) The term ''institution of higher education'' means a college, university, or other educational institution that is empowered by an appropriate authority, as determined by the Administrator, to award degrees higher than the baccalaureate level.

(2) The term ''nuclear nonproliferation sciences'' means bodies of scientific knowledge relevant to developing or advancing the means to prevent or impede the proliferation of nuclear weaponry.

(3) The term ''scientist'' means an individual who has a degree from an institution of higher education in a science that has practical application in the field of nuclear nonproliferation.

(c) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for nonproliferation and international security for fiscal year 2005, $10,000,000 may be used to carry out this section.

SEC. 1423. COLLABORATION TO REDUCE THE RISKS OF A LAUNCH OF RUSSIAN NUCLEAR WEAPONS.

(a) FINDINGS.—Congress finds that, despite the ending of the Cold War more than a decade ago, the nuclear postures and strategic command and control systems of the Russian Federation pose risks that a nuclear ballistic missile could be launched as the result of an accident, misinformation, miscalculation, or unauthorized use. Such risks are posed as a result of factors including the following:

(1) The high state of readiness of the Russian Federation's nuclear forces.

(2) The remote locations of much of the Russian Federation's nuclear forces.

(3) The inadequacy of the Russian Federation's early-warning information.

(4) The very short time that would be available to the President of the Russian Federation if the President were informed that a nuclear ballistic missile attack was or might be underway.

(5) The possibility that the Russian Federation, because of concerns that much of its nuclear forces would not survive a nuclear attack, may have a nuclear deterrence posture reliant upon launching a retaliatory nuclear strike when it believes a nuclear ballistic missile attack against it is or might be underway.

(6) Deficiencies in the security and control of the nuclear forces of the Russian Federation that could result in unauthorized personnel gaining control of a nuclear-armed missile or warhead.

(7) The susceptibility of nuclear strategic command and control systems and early-warning systems to an intrusion or accident that could create the false appearance that a nuclear ballistic missile attack is or might be underway.

(b) REPORT.—(1) Not later than November 1, 2005, the Secretary of Defense shall submit to Congress a report on the collaborative measures that the United States and the Russian Federation could take to reduce the risks that a nuclear ballistic missile could be launched as the result of an accident, misinformation, miscalculation, or unauthorized use. For each such measure, the report shall provide—

(A) specific comments on the advisability of the measure in terms of the potential contribution of the measure to the national security interests of the United States, including the potential contribution of the measure in improving relations between the United States and the Russian Federation; and

(B) a description of the obstacles and opportunities associated with pursuing the measure.

(2) In addition to any other measure that the Secretary considers appropriate, the report required by paragraph (1) shall cover the following measures:

(A) The future of the Joint Data Exchange Center.

(B) Potential topics for discussion between high-level military leaders of the United States and of the Russian Federation on reducing the risk that a nuclear ballistic missile could be launched as the result of an accident, misinformation, miscalculation, or unauthorized use.

TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

SEC. 1501. PURPOSE.

The purpose of this title is to authorize appropriations for the Department of Defense for fiscal year 2005, in addition to amounts otherwise authorized by this Act, to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom.

Subtitle A—Authorization of Appropriations

SEC. 1511. ARMY PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement accounts of the Army in amounts as follows:

(1) For aircraft, $498,300,000.

(2) For missiles, $42,800,000.

(3) For weapons and tracked combat vehicles, $201,900,000.

(4) For ammunition, $78,750,000.

(5) For other procurement, $1,567,410,000.

(6) For National Guard and Reserve equipment, $50,000,000.

SEC. 1512. NAVY AND MARINE CORPS PROCUREMENT.

(a) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for the Marine Corps in the amount of $98,190,000.

(b) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $38,402,000.

SEC. 1513. AIR FORCE PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for aircraft for the Air Force in amount of $99,000,000.

SEC. 1514. DEFENSE-WIDE ACTIVITIES PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for Defense-wide procurement in the amount of $720,000,000.

SEC. 1515. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $9,607,113,000.

(2) For the Navy, $256,500,000.

(3) For the Marine Corps, $2,398,735,000.

(4) For the Air Force, $1,635,000,000.

(5) For Defense-wide, $2,327,900,000.

SEC. 1516. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of $75,000,000, for Operation and Maintenance.

SEC. 1517. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2005 a total of $5,305,000,000.

SEC. 1518. TREATMENT AS ADDITIONAL AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

SEC. 1519. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2005 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,500,000,000. The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1520. DESIGNATION OF EMERGENCY AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are designated for emergency contingency operations related to the global war on terrorism.

Subtitle B—Personnel Provisions

SEC. 1531. THREE-YEAR INCREASE IN ACTIVE ARMY STRENGTH LEVELS.

(a) AUTHORIZED END STRENGTHS.—(1) The end strength level authorized for the Army for fiscal year 2005 under section 401 is hereby increased by 10,000.

(2) For fiscal years 2006 and 2007, the Army is authorized strengths for active duty personnel as follows:

(A) As of September 30, 2006, 502,400.

(B) As of September 30, 2007, 512,400.

(b) STATUTORY MINIMUM ACTIVE STRENGTH LEVEL.—The minimum strength for the Army under section 691(b) of title 10, United States Code (notwithstanding the number specified in paragraph (1) of that section)—

(1) for the period beginning on October 1, 2004, and ending on September 30, 2005, shall be the number specified in section 401(1) of this Act, increased by 10,000;

(2) for the period beginning on October 1, 2005, and ending on September 30, 2006, shall be 502,400; and

(3) for the period beginning on October 1, 2006, and ending on September 30, 2007, shall be 512,400.

(c) NOTICE TO CONGRESS.—If the Secretary of Defense, in consultation with the Secretary of the Army, determines that adjustments are necessary to the minimum end-strength level for the Army in effect at any time pursuant to subsection (b), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing the Secretary's recommendations and rationale for such an adjustment. Such a report must be submitted before the submission of the budget request for the fiscal year for which the change would be effective.

SEC. 1532. THREE-YEAR INCREASE IN ACTIVE MARINE CORPS STRENGTH LEVELS.

(a) AUTHORIZED END STRENGTHS.—(1) The end strength level authorized for the Marine Corps for fiscal year 2005 under section 401 is hereby increased by 3,000.

(2) For fiscal years 2006 and 2007, the Marine Corps is authorized strengths for active duty personnel as follows:

(A) As of September 30, 2006, 181,000.

(B) As of September 30, 2007, 184,000.

(b) STATUTORY MINIMUM ACTIVE STRENGTH LEVEL.—The minimum strength for the Marine Corps under section 691(b) of title 10, United States Code (notwithstanding the number specified in paragraph (3) of that section)—

(1) for the period beginning on October 1, 2004, and ending on September 30, 2005, shall be the number specified in section 401(3) of this Act, increased by 3,000;

(2) for the period beginning on October 1, 2005, and ending on September 30, 2006, shall be 181,000; and

(3) for the period beginning on October 1, 2006, and ending on September 30, 2007, shall be 184,000.

(c) NOTICE TO CONGRESS.—If the Secretary of Defense, in consultation with the Secretary of the Navy, determines that adjustments are necessary to the minimum end-strength level for the Marine Corps in effect at any time pursuant to subsection (b), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing the Secretary's recommendations and rationale for such an adjustment. Such a report must be submitted before the submission of the budget request for the fiscal year for which the change would be effective.

SEC. 1533. EXTENSION OF INCREASED RATES FOR IMMINENT DANGER PAY AND FAMILY SEPARATION ALLOWANCE.

(a) IMMINENT DANGER PAY.—(1) Subsection (e) of section 310 of title 37, United States Code, is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(2) Effective January 1, 2006, such section is further amended—

(A) in subsection (a), by striking ''$150'' and inserting ''$225''; and

(B) by striking subsection (e).

(b) FAMILY SEPARATION ALLOWANCE.—(1) Subsection (e) of section 427 of such title is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(2) Effective January 1, 2006, such section is further amended—

(A) in subsection (a)(1), by striking ''$100'' and inserting ''$250''; and

(B) by striking subsection (e).

Subtitle C—Financial Management Matters

SEC. 1541. REVISED FUNDING METHODOLOGY FOR MILITARY RETIREE HEALTH CARE BENEFITS.

(a) REVISION.—Section 1116 of title 10, United States Code, is amended to read as follows:

''§ 1116. Payments into the Fund

''(a) At the beginning of each fiscal year after September 30, 2005, the Secretary of the Treasury shall promptly pay into the Fund from the General Fund of the Treasury—

''(1) the amount certified to the Secretary by the Secretary of Defense under subsection (c), which shall be the contribution to the Fund for that fiscal year required by section 1115; and

''(2) the amount determined by each administering Secretary under section 1111(c) as the contribution to the Fund on behalf of the members of the uniformed services under the jurisdiction of that Secretary.

''(b) At the beginning of each fiscal year, the Secretary of Defense shall determine the sum of the following:

''(1) The amount of the payment for that year under the amortization schedule determined by the Board of Actuaries under section 1115(a) of this title for the amortization of the original unfunded liability of the Fund.

''(2) The amount (including any negative amount) of the Department of Defense contribution for that year as determined by the Secretary of Defense under section 1115(b) of this title.

''(3) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(2) of this title for the amortization of any cumulative unfunded liability (or any gain) to the Fund resulting from changes in benefits.

''(4) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(3) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial assumption changes.

''(5) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(4) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial experience.

''(c) The Secretary of Defense shall promptly certify the amount determined under subsection (b) each year to the Secretary of the Treasury.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1111(c) of title 10, United States Code, is amended in the last sentence by striking ''1116'' and all that follows through the end of the sentence and inserting ''1115(b) of this title, and such contributions shall be paid into the Fund as provided in section 1116(a).''.

(2) Section 1115(a) of such title is amended by striking ''1116(c)'' and inserting ''1116''.

(3) Section 1115(b) of such title is amended—

(A) by striking ''(1) The Secretary of Defense'' and all that follows through ''of this title.'' and inserting ''The Secretary of Defense shall determine, before the beginning of each fiscal year after September 30, 2005, the total amount of the Department of Defense contribution to be made to the Fund for that fiscal year for purposes of section 1116(b)(2).'';

(B) by striking paragraph (2);

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(D) in each of paragraphs (1) and (2), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(E) in paragraph (2)(B), as so redesignated, by striking ''subparagraph (A)(ii)'' and inserting ''paragraph (1)(B)''.

(4) Section 1115(c)(1) of such title is amended by striking ''and section 1116(a) of this title''.

(5) Section 1115(c)(5) of such title is amended by striking ''1116(c)'' and inserting ''1116''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SECTION 2001. SHORT TITLE.

This division may be cited as the ''Military Construction Authorization Act for Fiscal Year 2005''.

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or Location	Amount
Alabama	Anniston Army Depot	$23,690,000
Alaska	Fort Richardson	$24,300,000
	Fort Wainwright	$92,459,000
California	Fort Irwin	$38,100,000
Colorado	Fort Carson	$59,508,000
Georgia	Fort Benning	$73,627,000
	Fort Gillem	$5,800,000
	Fort McPherson	$4,900,000
	Fort Stewart/Hunter Army Air Field	$65,495,000
Hawaii	Helemano Military Reservation	$75,300,000
	Hickam Air Force	$11,200,000
	Schofield Barracks	$241,792,000
Kansas	Fort Riley	$44,050,000
Kentucky	Fort Campbell	$89,600,000
	Fort Knox	$73,850,000
Louisiana	Fort Polk	$70,953,000
Maryland	Fort Detrick	$4,000,000
Missouri	Fort Leonard Wood	$21,450,000
New Jersey	Picatinny Arsenal	$9,900,000
New Mexico	White Sands Missile Range	$33,000,000
New York	Fort Drum	$13,650,000
	Fort Hamilton	$7,600,000
	Hancock Field	$6,000,000
	Military Entrance Processing Station, Buffalo	$6,200,000
	United States Military Academy, West Point	$60,000,000
North Carolina	Fort Bragg	$111,687,000
Oklahoma	Fort Sill	$17,800,000
Texas	Camp Bullis	$5,300,000
	Fort Bliss	$19,400,000
	Fort Hood	$88,888,000
Virginia	Fort A.P. Hill	$3,975,000
	Fort Lee	$4,250,000
	Fort Myer	$49,526,000
Washington	Fort Lewis	$48,000,000
	Total	$1,505,250,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or Location	Amount
Germany	Grafenwoehr	$77,200,000
Italy	Livorno	$26,000,000
Korea	Camp Humphreys	$12,000,000
	Total	$115,200,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes and in the amounts, set forth in the following table:

Army: Family Housing

State	Installation or Location	Purpose	Amount
Alaska	Fort Richardson	92 Units	$42,000,000
	Fort Wainwright	246 Units	$124,000,000
Arizona	Fort Huachuca	205 Units	$41,000,000
	Yuma Proving Ground	55 Units	$14,900,000
Kansas	Fort Riley	126 Units	$33,000,000
New Mexico	White Sands Missile Range	156 Units	$31,000,000
Oklahoma	Fort Sill	247 Units	$47,000,000
Virginia	Fort Lee	218 Units	$46,000,000
	Fort Monroe	68 Units	$16,000,000
	Total		$394,900,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $29,209,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $211,990,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition and military family housing functions of the Department of the Army in the total amount of $3,428,815,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $1,335,750,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $115,200,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $20,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $161,209,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $636,099,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $926,507,000.

(6) For the construction of phase 2 of a barracks complex, 5th & 16th Street, at Fort Stewart/Hunter Army Air Field, Georgia, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $32,950,000.

(7) For the construction of phase 3 of a barracks complex renewal, Capron Road, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1283) and as amended by section 2105 of the Military Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $48,000,000.

(8) For the construction of phase 2 of the Lewis & Clark instructional facility at Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $44,000,000.

(9) For the construction of phase 2 of a barracks complex at Wheeler Sack Army Air Field at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $48,000,000.

(10) For the construction of phase 2 of a barracks complex, Bastogne Drive, Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $48,000,000.

(11) For the construction of phase 3 of a maintenance complex at Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $13,100,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $41,000,000 (the balance of the amount authorized under section 2101(a) to upgrade Drum Road, Helemano Military Reservation, Hawaii).

(3) $25,000,000 (the balance of the amount authorized under section 2101(a) for construction of a vehicle maintenance facility, Schofield Barracks, Hawaii).

(3) $25,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Fort Campbell, Kentucky).

(4) $22,000,000 (the balance of the amount authorized under section 2101(a) for construction of trainee barracks, Basic Training Complex 1, Fort Knox, Kentucky).

(5) $25,500,000 (the balance of the amount authorized under section 2101(a) for construction of a library and learning facility, United States Military Academy, West Point, New York).

(6) $31,000,000 (the balance of the amount authorized under section 2101(a) for a barracks complex renewal project, Fort Bragg, North Carolina).

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECTS.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECTS.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697) is amended—

(1) in the item relating to Fort Stewart/Hunter Army Air Field, Georgia, by striking ''$113,500,000'' in the amount column and inserting ''$114,450,000'';

(2) in the item relating to Fort Drum, New York, by striking ''$130,700,000'' in the amount column and inserting ''$135,700,000''; and

(3) by striking the amount identified as the total in the amount column and inserting ''$1,043,150,000''.

(b) CONFORMING AMENDMENTS.—Section 2104(b) of that Act (117 Stat. 1700) is amended—

(1) in paragraph (2), by striking ''$32,000,000'' and inserting ''$32,950,000''; and

(2) in paragraph (4), by striking ''$43,000,000'' and inserting ''$48,000,000''.

SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECT.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), as amended by section 2105(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1700), is further amended—

(1) in the item relating to Fort Sill, Oklahoma, by striking ''$39,652,000'' in the amount column and inserting ''$40,752,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$1,157,267,000''.

(b) CONFORMING AMENDMENT.—Section 2104(b)(6) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2684) is amended by striking ''$25,000,000'' and inserting ''$26,100,000''.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or Location	Amount
Arizona	Marine Corps Air Station, Yuma	$26,670,000
California	Marine Corps Air-Ground Task Force Training Center, Twentynine Palms	$15,700,000
	Marine Corps Air Station, Camp Pendleton	$11,540,000
	Marine Corps Base, Camp Pendleton	$26,915,000
	Marine Corps Logistics Base, Barstow	$4,930,000
	Naval Air Facility, El Centro	$54,331,000
	Naval Air Station, North Island	$10,180,000
	Naval Surface Warfare Center, Division Corona	$9,850,000
Connecticut	Naval Submarine Base, New London	$50,302,000
District of Columbia	Naval Observatory, Washington	$3,239,000
Florida	Eglin Air Force Base	$2,060,000
	Naval Station, Mayport	$6,200,000
Georgia	Strategic Weapons Facility Atlantic, Kings Bay	$16,000,000
Hawaii	Naval Shipyard, Pearl Harbor	$5,100,000
Illinois	Naval Training Center, Great Lakes	$74,781,000
Indiana	Naval Surface Warfare Center, Crane	$10,580,000
Louisiana	Joint Reserve Base/Naval Air Station, New Orleans	$6,030,000
Maryland	Naval Surface Warfare Center, Indian Head	$23,000,000
North Carolina	Marine Corps Air Station, New River	$35,140,000
	Marine Corps Base, Camp Lejeune	$11,030,000
Nevada	Naval Air Station, Fallon	$4,980,000
South Carolina	Marine Corps Air Station, Beaufort	$5,480,000
Virginia	Camp Elmore Marine Corps Detachment	$13,500,000
	Marine Corps Air Facility, Quantico	$21,180,000
	Marine Corps Combat Development Command, Quantico	$24,140,000
	Naval Air Station, Oceana	$2,770,000
	Naval Amphibious Base, Little Creek	$9,550,000
	Naval Station, Norfolk	$4,330,000
	Naval Weapons Station, Yorktown	$9,870,000
Washington	Naval Air Station, Whidbey Island	$1,990,000
	Naval Shipyard, Puget Sound	$23,455,000
	Naval Station, Bremerton	$74,125,000
	Strategic Weapons Facility Pacific, Bangor	$131,090,000
	Total	$730,038,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or Location	Amount
Bahamas	Naval Undersea Warfare Center, Andros Islands	$20,750,000
Diego Garcia	Naval Support Facility, Diego Garcia	$17,500,000
Guam	Naval Public Works Center, Guam	$20,700,000
	Naval Station, Guam	$12,500,000
Italy	Sigonella	$22,550,000
Spain	Naval Station, Rota	$32,700,000
	Total	$126,700,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(3), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations and in the amount, set forth in the following table:

Navy: Unspecified Worldwide

Location	Installation or Location	Amount
	Unspecified Worldwide	$148,640,000
	Total	$148,640,000

SEC. 2202. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes and in the amounts, set forth in the following table:

Navy: Family Housing

State	Installation or Location	Purpose	Amount
North Carolina	Marine Corps Air Station, Cherry Point	198 Units	$27,002,000
	Total		$27,002,000

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $112,105,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,913,273,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $631,908,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $126,700,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2201(c), $98,560,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $93,804,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $139,107,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $696,304,000.

(7) For the construction of increment 2 of the tertiary sewage treatment plant at Marine Corps Base, Camp Pendleton, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1703), $25,690,000.

(8) For the construction of increment 2 of the general purpose berthing pier at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $49,200,000.

(9) For the construction of increment 2 of pier 11 replacement at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $40,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a).

(2) $21,000,000 (the balance of the amount authorized under section 2201(a) for apron and hangar recapitalization, Naval Air Facility, El Centro, California).

(3) $40,000,000 (the balance of the amount authorized under section 2201(a) for construction of bachelor enlisted quarters, Naval Station, Bremerton, Washington).

(4) $95,320,000 (the balance of the amount authorized under section 2201(a) for construction of a limited area processing and storage complex, Strategic Weapons Facility Pacific, Bangor, Washington).

(5) $34,098,000 (the balance of the amount authorized under section 2201(c) for construction of a White Side complex at an unspecified location worldwide).

(6) $15,982,000 (the balance of the amount authorized under section 2201(c) for construction of a presidential helicopter programs support facility at an unspecified location).

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or Location	Amount
Alaska	Elmendorf Air Force Base	$26,057,000
Arizona	Davis-Monthan Air Force Base	$17,029,000
	Luke Air Force Base	$17,900,000
Arkansas	Little Rock Air Force Base	$8,931,000
California	Beale Air Force Base	$10,186,000
	Edwards Air Force Base	$9,965,000
	Travis Air Force Base	$18,894,000
Colorado	Buckley Air Force Base	$12,247,000
Florida	Tyndall Air Force Base	$29,162,000
Georgia	Moody Air Force Base	$9,600,000
	Robins Air Force Base	$15,000,000
Hawaii	Hickam Air Force Base	$25,900,000
Louisiana	Barksdale Air Force Base	$13,800,000
Maryland	Andrews Air Force Base	$17,100,000
Mississippi	Columbus Air Force Base	$7,700,000
Missouri	Whiteman Air Force Base	$7,600,000
New Mexico	Kirtland Air Force Base	$9,200,000
North Carolina	Pope Air Force Base	$15,150,000
Ohio	Wright-Patterson Air Force Base	$9,200,000
South Carolina	Shaw Air Force Base	$7,000,000
Tennessee	Arnold Air Force Base	$24,500,000
Texas	Dyess Air Force Base	$3,300,000
	Lackland Air Force Base	$2,596,000
	Laughlin Air Force Base	$6,900,000
	Sheppard Air Force Base	$50,284,000
Utah	Hill Air Force Base	$18,013,000
Wyoming	F.E. Warren Air Force Base	$5,500,000
	Total	$398,714,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or Location	Amount
Germany	Ramstein Air Base	$25,404,000
Greenland	Thule Air Base	$19,800,000
Guam	Andersen Air Force Base	$19,593,000
Italy	Aviano Air Base	$6,760,000
Japan	Misawa Air Base	$6,700,000
Korea	Kunsan Air Base	$37,100,000
	Osan Air Base	$18,600,000
Portugal	Lajes Field, Azores	$5,689,000
Spain	Naval Station, Rota	$14,153,000
United Kingdom	Royal Air Force Lakenheath	$5,500,000
	Total	$159,299,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations, and in the amount, set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation or Location	Amount
	Classified Locations	$26,121,000
	Unspecified Worldwide	$28,794,000
	Total	$54,915,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes and in the amounts, set forth in the following table:

Air Force: Family Housing

State	Installation or Location	Purpose	Amount
Arizona	Davis-Monthan Air Force Base	250 Units	$48,500,000
California	Edwards Air Force Base	218 Units	$41,202,000
	Vandenberg Air Force Base	120 Units	$30,906,000
Florida	MacDill Air Force Base	61 Units	$21,723,000
	MacDill Air Force Base	Housing Maintenance Facility	$1,250,000
Idaho	Mountain Home Air Force Base	147 Units	$39,333,000
Mississippi	Columbus Air Force Base	Housing Management Facility	$711,000
Missouri	Whiteman Air Force Base	160 Units	$37,087,000
Montana	Malmstrom Air Force Base	115 Units	$29,910,000
North Carolina	Seymour Johnson Air Force Base	167 Units	$32,693,000
North Dakota	Grand Forks Air Force Base	90 Units	$26,169,000
	Minot Air Force Base	142 Units	$37,087,000
South Carolina	Charleston Air Force Base	Fire Station	$1,976,000
South Dakota	Ellsworth Air Force Base	75 Units	$21,482,000
Texas	Dyess Air Force Base	127 Units	$28,664,000
	Goodfellow Air Force Base	127 Units	$20,604,000
Germany	Ramstein Air Base	144 Units	$57,691,000
Italy	Aviano Air Base	Housing Office	$2,542,000
Korea	Osan Air Base	117 Units	$46,834,000
United Kingdom	Royal Air Force Lakenheath	154 Units	$43,976,000
	Total		$570,340,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $38,266,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $238,353,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,493,679,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $398,714,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $159,299,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2301(c), $54,915,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $13,000,000.

(5) For architectural and engineering services and construction design, under section 2807 of title 10, United States Code, $166,126,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design and improvement of military family housing and facilities, $846,959,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $854,666,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or Location	Amount
Defense Intelligence Agency	Bolling Air Force Base, District of Columbia	$6,000,000
Defense Logistics Agency	Defense Distribution Depot, New Cumberland, Pennsylvania	$22,300,000
	Defense Distribution Depot, Richmond, Virginia	$10,100,000
	Defense Fuel Support Point, Naval Air Station, Oceana, Virginia	$3,589,000
	Defense Supply Center, Columbus, Ohio	$5,500,000
	Marina Corps Air Station, Cherry Point, North Carolina	$22,700,000
	Naval Air Station, Kingsville, Texas	$3,900,000
	Naval Station, Pearl Harbor, Hawaii	$3,500,000
	Tinker Air Force Base, Oklahoma	$5,400,000
	Travis Air Force Base, California	$15,100,000
Missile Defense Agency	Huntsville, Alabama	$19,560,000
National Security Agency	Fort Meade, Maryland	$15,007,000
Special Operations Command	Corona, California	$13,600,000
	Fleet Combat Training Center, Dam Neck, Virginia	$5,700,000
	Fort A.P. Hill, Virginia	$1,500,000
	Fort Bragg, North Carolina	$42,888,000
	Fort Stewart/Hunter Army Air Field, Georgia	$17,600,000
	Hurlburt Field, Florida	$2,500,000
	Naval Amphibious Base, Little Creek, Virginia	$33,200,000
	Naval Air Station, North Island, California	$1,000,000
TRICARE Management Activity	Buckley Air Force Base, Colorado	$2,100,000
	Defense Language Institute, Presidio, Monterey	$6,700,000
	Fort Belvoir, Virginia	$100,000,000
	Fort Benning, Georgia	$7,100,000
	Langley Air Force Base, Virginia	$50,800,000
	Marine Corps Recruit Depot, Parris Island, South Carolina	$25,000,000
	Naval Air Station, Jacksonville, Florida	$28,438,000
	Total	$470,782,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or Location	Amount
Defense Education Activity	Grafenwoehr, Germany	$36,247,000

Defense Agencies: Outside the United States—Continued

Agency	Installation or Location	Amount
Defense Logistics Agency	Naval Station, Guam	$26,964,000
	Vilseck, Germany	$9,011,000
	Defense Fuel Support Point, Lajes Field, Portugal	$19,113,000
Special Operations Command	Misawa Air Base, Japan	$19,900,000
	Naval Station, Guam, Marianas Islands	$2,200,000
TRICARE Management Activity	Royal Air Force Mildenhall, United Kingdom	$10,200,000
	Diego Garcia	$3,800,000
	Grafenwoehr, Germany	$13,000,000
	Total	$140,435,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(3), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations, and in the amount, set forth in the following table:

Defense Agencies: Unspecified Worldwide

Location	Installation or Location	Amount
Special Operations Command	Classified Locations	$7,400,000
	Unspecified Worldwide	$2,900,000
	Total	$10,300,000

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(9)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $49,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(7), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $50,000,000.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECTS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,089,063,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $413,782,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $140,435,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2401(c), $10,300,000.

(4) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $20,938,000.

(5) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $63,482,000.

(7) For Energy Conservation projects authorized by section 2404 of this Act, $50,000,000.

(8) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $246,116,000.

(9) For military family housing functions:

(A) For improvement of military family housing and facilities, $49,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $49,575,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,500,000.

(10) For the construction of phase 6 of an ammunition demilitarization facility at Pueblo Depot Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839), and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $44,792,000.

(11) For the construction of phase 5 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act of 2002 (division B of Public Law 107–107; 115 Stat. 1298), and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $37,094,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a).

(2) $57,000,000 (the balance of the amount authorized under section 2401(a) for hospital replacement, Fort Belvoir, Virginia).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment Program authorized by section 2501, in the amount of $165,800,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2004, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $393,225,000; and

(B) for the Army Reserve, $116,955,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $30,955,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $184,620,000; and

(B) for the Air Force Reserve, $114,090,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2007; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2008.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2007; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2008 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1301), authorizations set forth in the tables in subsection (b), as provided in section 2101 or 2302 of that Act, shall remain in effect until October 1, 2005, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 2002 Project Authorizations

State	Installation or Location	Project	Amount
Alaska	Fort Wainwright	Power plant cooling tower	$23,000,000
Hawaii	Pohakuloa Training Area	Parker Ranch land acquisition	$1,500,000

Air Force: Extension of 2002 Project Authorizations

State	Installation or Location	Project	Amount
Colorado	Buckley Air Force Base	Family housing (55 Units)	$11,400,000
Louisiana	Barksdale Air Force Base	Family housing (56 Units)	$7,300,000

SEC. 2703. EXTENSION AND RENEWAL OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) EXTENSION AND RENEWAL.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–407)), authorizations set forth in the tables in subsection (b), as provided in section 2102 or 2401 of that Act and, in the case of the authorization set forth in the first table in subsection (b), extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1716), shall remain in effect until October 1, 2005, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 2001 Project Authorization

State	Installation or Location	Project	Amount
South Carolina	Fort Jackson	Family housing (1 unit)	$250,000

Defense Agencies: Extension of 2001 Project Authorizations

Agency	Installation or Location	Project	Amount
Defense Finance and Accounting Service	Kleber Kaserne, Germany	Building renovation	$7,400,000
Defense Education Activity	Osan Air Base, Korea	Osan Elementary School addition	$843,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on the later of—

(1) October 1, 2004; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SECTION 2801. INCREASE IN CERTAIN THRESHOLDS FOR CARRYING OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.

(a) ADVANCE APPROVAL AND CONGRESSIONAL NOTIFICATION THRESHOLD.—Subsection (b)(1) of section 2805 of title 10, United States Code, is amended by striking ''$750,000'' and inserting ''$1,000,000''.

(b) USE OF OPERATION AND MAINTENANCE FUNDS THRESHOLD.—Subsection (c) of such section is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

''(1) Except as provided in paragraphs (2) and (3), the Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified minor military construction project costing not more than $1,500,000.''; and

(2) in paragraph (3), by striking ''limitations'' and inserting ''limitation''.

SEC. 2802. ASSESSMENT OF VULNERABILITY OF MILITARY INSTALLATIONS TO TERRORIST ATTACK AND ANNUAL REPORT ON MILITARY CONSTRUCTION REQUIREMENTS RELATED TO ANTITERRORISM AND FORCE PROTECTION.

(a) ANNUAL ASSESSMENT AND REPORT.—Section 2808 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d) ANTITERRORISM AND FORCE PROTECTION ASSESSMENTS AND MILITARY CONSTRUCTION REQUIREMENTS.—(1) The Secretary of Defense shall develop common guidance and criteria to be used by the Secretary concerned—

''(A) to assess the vulnerability of military installations located inside and outside of the United States to terrorist attack;

''(B) to develop construction standards designed to reduce the vulnerability of structures to terrorist attack and improve the security of the occupants of such structures;

''(C) to prepare and carry out military construction projects, such as gate and fenceline construction, to improve the physical security of military installations; and

''(D) to assist in prioritizing such projects within the military construction budget of each of the armed forces.

''(2) The Secretary of Defense shall require vulnerability assessments of military installations to be conducted, at regular intervals, using the criteria developed under paragraph (1).

''(3) As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report describing—

''(A) the location and results of the vulnerability assessments conducted during the preceding fiscal year;

''(B) the military construction requirements anticipated to be necessary during the next three fiscal years to improve the physical security of military installations; and

''(C) the extent to which funds are not requested in the Department of Defense budget for the next fiscal year to meet those requirements.

''(4) In the case of the report required under paragraph (3) to be submitted in 2006, the Secretary of Defense shall include a certification by the Secretary that since September 11, 2001, vulnerability assessments have been undertaken at all major military installations. The Secretary shall indicate the basis by which the Secretary

differentiated between major and nonmajor military installations for purposes of making the certification.''.

(b) STYLISTIC AND CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 2808. Construction authority related to declaration of war or national emergency; construction requirements related to antiterrorism and force protection''.

(2) Such section is further amended—

(A) in subsection (a), by inserting ''CONSTRUCTION AUTHORITY; LIMITATION.—'' after ''(a)'';

(B) in subsection (b), by inserting ''CONGRESSIONAL NOTIFICATION.—'' after ''(b)''; and

(C) in subsection (c), by inserting ''TERMINATION.—'' after ''(c)''.

(3) The table of sections at the beginning of chapter 169 of such title is amended by striking the item relating to section 2808 and inserting the following new item:

''2808. Construction authority related to declaration of war or national emergency; construction requirements related to antiterrorism and force protection.''.

SEC. 2803. CHANGE IN THRESHOLD FOR CONGRESSIONAL NOTIFICATION REGARDING USE OF OPERATION AND MAINTENANCE FUNDS FOR FACILITY REPAIR.

Section 2811(d) of title 10, United States Code, is amended by striking ''$10,000,000'' and inserting ''$7,500,000''.

SEC. 2804. REPORTING REQUIREMENTS REGARDING MILITARY FAMILY HOUSING REQUIREMENTS FOR GENERAL OFFICERS AND FLAG OFFICERS.

(a) ANNUAL REPORT ON COST OF GENERAL AND FLAG OFFICERS QUARTERS.—Section 2831 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(e) ANNUAL REPORT OF COST OF GENERAL OFFICERS AND FLAG OFFICERS QUARTERS.—As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 30 of each year, the Secretary of Defense shall submit a report—

''(1) identifying family housing units used, or intended for use, as quarters for general officers or flag officers for which the total operation and maintenance costs, utility costs, and repair costs are anticipated to exceed $20,000 in the next fiscal year; and

''(2) specifying the total of such costs for each unit of family housing identified under paragraph (1).''.

(b) REPORT ON NEED FOR SUCH QUARTERS IN NATIONAL CAPITAL REGION.—The Secretary of Defense shall prepare a report analyzing anticipated needs in the National Capital Region for family housing units for general officers and flag officers. In conducting the analysis, the Secretary shall consider the extent of available housing in the National Capital Region and the necessity of providing housing for general officers and flag officers in secure locations.

(c) REPORT ON WORLD-WIDE INVENTORY OF SUCH QUARTERS.—The Secretary of Defense shall prepare a report containing a worldwide inventory of family housing units for general officers and flag officers and identifying annual expenditures for each such unit for operation and maintenance, utilities, and repair for each for the fiscal years 2000 through 2004.

(d) SUBMISSION OF REPORTS.—The reports required by subsections (b) and (c) shall be submitted to the congressional defense committees not later than March 30, 2005.

(e) DEFINITIONS.—In this section:

(1) The terms ''general officer'' and ''flag officer'' have the meanings given such terms in section 101(b) of title 10, United States Code.

(2) The term ''National Capital Region'' has the meaning given such term in section 2674(f) of such title.

SEC. 2805. CONGRESSIONAL NOTIFICATION OF DEVIATIONS FROM AUTHORIZED COST VARIATIONS FOR MILITARY CONSTRUCTION PROJECTS AND MILITARY FAMILY HOUSING PROJECTS.

Section 2853(c)(3) of title 10, United States Code, is amended by inserting before the period at the end the following: ''or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

SEC. 2806. REPEAL OF LIMITATION ON USE OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY FAMILY HOUSING.

Effective October 1, 2005, subsection (g) of section 2883 of title 10, United States Code, is amended to read as follows:

''(g) LIMITATION ON USE OF AUTHORITY TO ACQUIRE OR CONSTRUCT MILITARY UNACCOMPANIED HOUSING.—The total value in budget authority of all contracts and investments undertaken using the authorities provided in this subchapter for the acquisition or construction of military unaccompanied housing shall not exceed $150,000,000.''.

SEC. 2807. TEMPORARY AUTHORITY TO ACCELERATE DESIGN EFFORTS FOR MILITARY CONSTRUCTION PROJECTS CARRIED OUT USING DESIGN-BUILD SELECTION PROCEDURES.

Section 2305a of title 10, United States Code, is amended by adding at the end the following new subsection:

''(f) SPECIAL AUTHORITY FOR MILITARY CONSTRUCTION PROJECTS.—(1) The Secretary of a military department, and the Secretary of Defense with respect to matters concerning the Defense Agencies, may use funds available to the Secretary under section 2807(a) or 18233(e) of this title to accelerate the design effort in connection with a military construction project for which the two-phase selection procedures described in subsection (c) are used to select the contractor for both the design and construction portion of the project before the project is specifically authorized by law and before funds are appropriated for the construction portion of the project. Notwithstanding the limitations contained in such sections, use of such funds for the design portion of a military construction project may continue despite the subsequent authorization of the project. The advance notice requirement of section 2807(b) of this title shall continue to apply whenever the estimated cost of the design portion of the project exceeds the amount specified in such section.

''(2) Any military construction contract that provides for an accelerated design effort, as authorized by paragraph (1), shall include as a condition of the contract that the liability of the United States in a termination for convenience may not exceed costs above the costs attributable to the final design of the project.

''(3) Not more than 36 military construction projects containing the accelerated design effort authorized by paragraph (1) may be carried out.

''(4) Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report evaluating the usefulness of the authority provided by this subsection in expediting the design and construction of military construction projects. The authority provided by this subsection expires September 30, 2008, except that, if the report required by this paragraph is not submitted by March 1, 2007, the authority shall expire on that date.''.

SEC. 2808. EXCHANGE OR SALE OF RESERVE COMPONENT FACILITIES TO ACQUIRE REPLACEMENT FACILITIES.

Section 18233 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(g)(1) The Secretary of Defense may convey, by exchange or sale, an existing facility of a reserve component of the armed forces for the purpose of acquiring a replacement facility under this section or using the proceeds from the sale to acquire a replacement facility under this section, if the Secretary determines it is in the best interests of the United States to acquire the replacement facility by such exchange or sale. The United States shall receive funds or a replacement facility, or a combination of both, having a total value at least equal to the fair market value of the conveyed facility.

''(2) Acquisition of a replacement facility under this subsection may be accomplished by construction, expansion, rehabilitation, or conversion and must result in a fully equipped and operational replacement facility. Nothing in this subsection prohibits the Secretary of Defense from contributing additional funds, in accordance with this section, to obtain a fully equipped and operational replacement facility.

''(3) Funds received under this subsection shall be deposited in a separate account and remain available to the Secretary of Defense, without appropriation, for use in accordance with this subsection. Any funds received under this subsection in connection with a conveyance in excess of the funds required to obtain a fully equipped and operational replacement facility for the conveyed facility may be used by the Secretary for the purposes of subsection (a).''.

SEC. 2809. ONE-YEAR EXTENSION OF TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.

Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723) is amended—

(1) in subsections (a) and (d), by striking ''fiscal year 2004'' both places it appears and inserting ''fiscal years 2004 and 2005''; and

(2) in subsection (c)(1), by striking ''in fiscal year 2004'' and inserting ''in a fiscal year''.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. INCREASE IN CERTAIN THRESHOLDS FOR REPORTING REAL PROPERTY TRANSACTIONS.

(a) GENERAL NOTICE AND WAIT THRESHOLD.—Subsection (a) of section 2662 of title 10, United States Code, is amended by striking ''$750,000'' each place it appears and inserting ''$1,500,000''.

(b) ANNUAL REPORT ON MINOR TRANSACTIONS THRESHOLD.—Subsection (b) of such section is amended by striking ''subsection (a) that involve an estimated value of more than $250,000, but not more than $750,000'' and inserting ''such subsection that involve an estimated value of more than $500,000, but not more than the amount specified in such subsection''.

(c) NOTICE AND WAIT THRESHOLD FOR CERTAIN GSA LEASES.—Subsection (e) of such section is amended by striking ''$750,000'' and inserting ''$1,500,000''.

(d) THRESHOLD FOR ACQUISITION OF LOW-COST INTERESTS IN LAND.—Subsection (a) of section 2672 of such title is amended to read as follows:

''(a) ACQUISITION AUTHORITY.—The Secretary of a military department may acquire any interest in land that—

''(1) the Secretary determines is needed in the interest of national defense; and

''(2) does not cost more than $1,500,000, exclusive of administrative costs and the amounts of any deficiency judgments.''.

(e) TREATMENT MULTIPLE PARCELS UNDER LOW-COST ACQUISITION AUTHORITY.—Subsection (b) of such section is amended to read as follows:

''(b) TREATMENT OF MULTIPLE PARCELS.—This section does not authorize the acquisition, as a part of the same project, of more than one parcel of land unless—

''(1) the parcels are noncontiguous; or

''(2) if contiguous, the total cost for the acquisition of all of the contiguous parcels does not cost more than the amount specified in subsection (a)(2).''.

SEC. 2812. REORGANIZATION OF EXISTING ADMINISTRATIVE PROVISIONS RELATING TO REAL PROPERTY TRANSACTIONS.

(a) LIMITATION ON COMMISSIONS.—(1) Section 2661 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(c) COMMISSIONS ON LAND PURCHASE CONTRACTS.—The maximum amount payable as a commission on a contract for the purchase of land from funds appropriated for the Department of Defense is two percent of the purchase price.''.

(2) Section 2666 of such title is repealed.

(b) REPEAL OF OBSOLETE AUTHORITY TO ACQUIRE LAND FOR TIMBER PRODUCTION.—Section 2664 of such title is repealed.

(c) AVAILABILITY OF FUNDS FOR ACQUISITION OF CERTAIN INTERESTS IN REAL PROPERTY.—(1) Section 2672 of such title is amended by adding at the end the following new subsection:

''(d) AVAILABILITY OF FUNDS.—Appropriations available to the Department of Defense for operation and maintenance or construction may be used for the acquisition of land or interests in land under this section.''.

(2) Section 2673 of such title is repealed.

(3) Section 2675 of such title is amended—

(A) by inserting before ''The Secretary'' the following ''(a) LEASE AUTHORITY; DURATION.—''; and

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

''(b) AVAILABILITY OF FUNDS.—Appropriations available to the Department of Defense for operation and maintenance or construction may be used for the acquisition of interests in land under this section.''.

(d) STYLISTIC AND CLERICAL AMENDMENTS.—(1) Section 2661 of such title is further amended—

(A) in subsection (a), by inserting ''AVAILABILITY OF OPERATION AND MAINTENANCE FUNDS.—'' after ''(a)'' ; and

(B) in subsection (b), by inserting ''LEASING AND ROAD MAINTENANCE AUTHORITY.—'' after ''(b)''.

(2) The table of sections at the beginning of chapter 159 of such title is amended by striking the items relating to sections 2664, 2666, and 2673.

SEC. 2813. TREATMENT OF MONEY RENTALS FROM GOLF COURSE AT ROCK ISLAND ARSENAL, ILLINOIS.

(a) SUPPORT OF MWR ACTIVITIES.—Section 2667(d) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by redesignating clause (ii) as clause (iii); and

(B) by inserting after clause (i) the following new clause:

''(ii) Money rentals deposited in a nonappropriated morale, welfare, and recreation account under paragraph (3).''; and

(2) by inserting after paragraph (2) the following new paragraph:

''(3) The Secretary of the Army may deposit up to 50 percent of the money rentals received by the United States from a lease involving the golf course at Rock Island Arsenal, Illinois, in the nonappropriated morale, welfare, and recreation account for that installation, to be used for quality-of-life programs at that installation.''.

(b) EFFECTIVE DATE.—Paragraph (3) of section 2667(d) of title 10, United States Code, as added by subsection (a), shall apply to money rentals referred to in such paragraph received by the United States after September 30, 2004.

SEC. 2814. NUMBER OF CONTRACTS AUTHORIZED DEPARTMENT-WIDE UNDER DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS.

Section 2814 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2809 note) is amended—

(1) in subsection (a), by striking ''or the Secretary of a military department'' and inserting ''and the Secretaries of the military departments'';

(2) in subsection (b)(1), by striking ''12 contracts per military department'' and inserting ''36 contracts''; and

(3) in subsection (b)(2), by striking ''the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003'' and inserting ''December 2, 2002''.

SEC. 2815. REPEAL OF COMMISSION ON REVIEW OF OVERSEAS MILITARY FACILITY STRUCTURE OF THE UNITED STATES.

Section 128 of the Military Construction Appropriations Act, 2004 (Public Law 108–132; 117 Stat. 1382; 10 U.S.C. 111 note), is repealed.

SEC. 2816. DESIGNATION OF AIRMEN LEADERSHIP SCHOOL AT LUKE AIR FORCE BASE, ARIZONA, IN HONOR OF JOHN J. RHODES, A FORMER MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

The Airmen Leadership School at Luke Air Force Base, Arizona, building 156, shall be known and designated as the ''John J. Rhodes Airmen Leadership School''. Any reference to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the John J. Rhodes Airmen Leadership School.

SEC. 2817. ELIMINATION OF REVERSIONARY INTERESTS CLOUDING UNITED STATES TITLE TO PROPERTY USED AS NAVY HOMEPORTS.

(a) AUTHORITY TO ACQUIRE COMPLETE TITLE.—If real property owned by the United States and used as a Navy homeport is subject to a reversionary interest of any kind, the Secretary of the Navy may enter into an agreement with the holder of the reversionary interest to acquire the reversionary interest and thereby secure for the United States all right, title, and interest in and to the property.

(b) CONSIDERATION.—(1) As consideration for the acquisition of a reversionary interest under subsection (a), the Secretary shall provide the holder of the reversionary interest with in-kind consideration, to be determined pursuant to negotiations between the Secretary and the holder of the reversionary interest. In determining the type and value of any in-kind consideration to be provided for the acquisition of a reversionary interest under subsection (a), the Secretary shall take into account the nature of the reversionary interest, including whether it would require the holder of the reversionary interest to pay for any improvements acquired by the holder as part of the reversion of the real property, and the long-term use and ultimate disposition of the real property if the United States were to acquire all right, title, and interest in and to the real property subject to the reversionary interest.

(2) Cash payments are not authorized as consideration for the acquisition of reversionary interests under subsection (a).

SEC. 2818. REPORT ON REAL PROPERTY DISPOSAL AT MARINE CORPS AIR STATION, EL TORO, CALIFORNIA.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report describing—

(1) the progress being made with regard to the disposal of real property at Marine Corps Air Station, El Toro, California, including any challenges arising from plans to dispose of property at the installation by auction;

(2) the anticipated future uses of the property; and

(3) the requests received from other Federal agencies (including other military departments) for property at the installation.

Subtitle C—Base Closure and Realignment

SEC. 2821. TWO-YEAR POSTPONEMENT OF 2005 BASE CLOSURE AND REALIGNMENT ROUND AND SUBMISSION OF REPORTS REGARDING FUTURE INFRASTRUCTURE REQUIREMENTS FOR THE ARMED FORCES.

(a) TWO-YEAR POSTPONEMENT IN SUBMITTAL OF BASE CLOSURE AND REALIGNMENT RECOMMENDATIONS.—Section 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3003 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1345), is amended—

*(1) in the section heading, by striking ''**2005**'' and inserting ''**2007**''; and*

(2) in subsection (a), by striking ''May 16, 2005,'' and inserting ''May 16, 2007,''.

(b) COMMISSION REVIEW AND RECOMMENDATIONS.—Subsection (d) of section 2914 of the Defense Base Closure and Realignment Act of 1990 is amended—

(1) in paragraphs (1) and (2), by striking ''September 8, 2005'' both places it appears and inserting ''September 8, 2007''; and

(2) in paragraph (6)—

(A) by striking ''in 2005'' and inserting ''under this section''; and

(B) by striking ''July 1, 2005'' and inserting ''July 1, 2007''.

(c) REVIEW BY PRESIDENT AND TRANSMITTAL TO CONGRESS.—Subsection (e) of section 2914 of the Defense Base Closure and Realignment Act of 1990 is amended—

(1) in paragraph (1)—

(A) by striking ''in 2005'' and inserting ''under this section''; and

(B) by striking ''September 23, 2005'' and inserting ''September 23, 2007'';

(2) in paragraph (2), by striking ''October 20, 2005'' and inserting ''October 20, 2007''; and

(3) in paragraph (3)—

(A) by striking ''November 7, 2005'' and inserting ''November 7, 2007''; and

(B) by striking ''in 2005'' and inserting ''in 2007''.

(d) NEW FORCE STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY; RECERTIFICATION OF NEED FOR ADDITIONAL ROUND.—Section 2912 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3001 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1342), is amended—

*(1) in the section heading, by striking ''**2005**'' and inserting ''**2007**'';*

(2) by striking ''fiscal year 2005'' each place it appears and inserting ''fiscal year 2007'';

(3) in subsection (b)(1), by inserting ''for fiscal year 2007'' after ''subsection (a)'';

(4) in subsections (b)(2) and (d), by striking ''in 2005'' each place it appears and inserting ''under section 2914'';

(5) in subsection (d), by striking ''March 15, 2005'' both places it appears and inserting ''March 15, 2007'';

(6) in subsection (d)(4), by striking ''calendar year 2005 and shall terminate on April 15, 2006'' and inserting ''calendar year 2007 and shall terminate on April 15, 2008''; and

(7) in subsection (d)(5), by striking ''second session of the 108th Congress for the activities of the Commission in 2005'' and inserting ''second session of the 109th Congress for the activities of the Commission under section 2914''.

(e) INFRASTRUCTURE-RELATED REPORTING REQUIREMENTS; TERMINATION OF BASE CLOSURE ROUND.—Section 2912 of the Defense Base Closure and Realignment Act of 1990 is further amended by adding at the end the following new subsection:

''(e) INFRASTRUCTURE-RELATED REPORTS.—

''(1) REQUIRED REPORTS.—The Secretary shall prepare the following reports related to infrastructure requirements for the Armed Forces:

''(A) A report containing the Integrated Global Presence and Basing Strategy of the Department of Defense, including the location of long-term overseas installations, installations to be used for rotational purposes, and forward operating locations, anticipated rotational plans and policies, and domestic and overseas infrastructure requirements associated with the strategy.

''(B) A report describing the anticipated infrastructure requirements associated with the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) for each of the Armed Forces resulting from force transformation.

''(C) A report describing the anticipated infrastructure requirements related to expected changes in the active component versus reserve component personnel mix of the Armed Forces.

''(D) A report describing the anticipated infrastructure requirements associated with the so-called '10–30–30 objective' of the Secretary to ensure that military forces are capable of deployment overseas within 10 days in sufficient strength to defeat an enemy within 30 days and be ready for redeployment within 30 days after the end of combat operations.

''(E) A report containing the results of a complete reassessment of the infrastructure necessary to support the force structure described in the force-structure plan prepared under paragraph (1) of subsection (a) and describing any resulting excess infrastructure and infrastructure capacity, which were previously required by paragraph (2) of such subsection. The reassessment shall be based on actual infrastructure, facility, and space requirements for the Armed Forces rather than a comparative study between 1989 and 2003.

''(F) A report describing the anticipated infrastructure requirements associated with the assessment prepared by the Secretary pursuant to section 2822 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1726), in which Congress required the Secretary to assess the probable threats to national security and determine the potential, prudent, surge requirements for the Armed Forces and military installations to meet those threats.

''(2) TIME FOR SUBMISSION OF REPORTS.—The reports required by paragraph (1) shall be submitted to the congressional defense committees only during the period beginning on January 1, 2006, and ending on March 15, 2006.

''(3) TERMINATION OF ROUND FOR FAILURE TO SUBMIT REPORTS AS REQUIRED.—If the reports required by paragraph (1) are not submitted during the period specified in paragraph (2), the process for the making of recommendations to the Congress for the closure or realignment of military installations and the selection of installations for closure or realignment under this part in 2007 shall be terminated.''.

(f) CONFORMING AMENDMENTS.—(1) Section 2904(a)(3) of the Defense Base Closure and Realignment Act of 1990 is amended by striking ''in the 2005 report'' and inserting ''in a report submitted after 2001''.

(2) Section 2906(e) of such Act is amended by striking ''2005'' and inserting ''2007''.

(3) Section 2906A of such Act is amended—

(A) in the section heading, by striking ''**2005**'' and inserting ''**2007**''; and

(B) by striking ''2005'' each place it appears and inserting ''2007''.

(4) Section 2909(a) of such Act is amended by striking ''2006'' and inserting ''2008''.

SEC. 2822. ESTABLISHMENT OF SPECIFIC DEADLINE FOR SUBMISSION OF REVISIONS TO FORCE-STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY FOR NEXT BASE CLOSURE ROUND.

Section 2912(a)(4) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking ''as part of the budget justification document submitted to Congress for fiscal year 2006.'' and inserting ''not later than March 15 of the year in which the Secretary will submit, consistent with subsection (e) of this section, the list of the military installations inside the United States that the Secretary recommends for closure or realignment. No revision of the force-structure plan or infrastructure inventory is authorized after that March 15 date.''.

SEC. 2823. SPECIFICATION OF FINAL SELECTION CRITERIA FOR NEXT BASE CLOSURE ROUND.

(a) FINDINGS.—Congress finds the following:

(1) Title XXX of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1342) amended the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) to authorize the Secretary of Defense to conduct an additional round of base realignments and closures.

(2) In section 2822 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1726), approved November 24, 2003, Congress required the Secretary of Defense to assess the probable threats to national security and determine the potential, prudent, surge requirements for the Armed Forces and military installations to meet those threats. Such section specifically requires the Secretary of Defense to use the determination of surge requirements in exercising the authority of the Secretary to conduct the next round of base realignments and closures.

(3) Section 2913 of the Defense Base Closure and Realignment Act of 1990, as added by title XXX of the National Defense Authorization Act for Fiscal Year 2002, specified the process by which the Secretary of Defense was to prepare the criteria to be used by the Secretary in making recommendations for the next round of base realignments and closures and listed certain requirements the Secretary had to comply with as part of the process, including the advance publication of the proposed criteria and the solicitation and consideration of public comments.

(4) In subsection (e) of such section, Congress required the Secretary of Defense to publish in the Federal Register and transmit to Congress not later than February 16, 2004, the final criteria intended to be used by the Secretary in making recommendations for the next round of base realignments and closures. Pursuant to such subsection, the Secretary of Defense published the final selection criteria in the Federal Register on February 12, 2004 (69 Fed. Reg. 6948).

(5) In addition to specifically reserving its right to disapprove the final selection criteria, Congress may modify or otherwise amend the criteria by Act of Congress.

(b) CONGRESSIONAL SPECIFICATION OF FINAL BRAC SELECTION CRITERIA.—Section 2913 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3002 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1344), is amended to read as follows:

''SEC. 2913. FINAL SELECTION CRITERIA FOR ADDITIONAL ROUND OF BASE CLOSURES AND REALIGNMENTS.

''(a) FINAL SELECTION CRITERIA.—The final criteria to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United States under this part in any additional round of base closures and realignments are as follows:

''(1) The current and future mission requirements and the impact on operational readiness of the total force of the Department of Defense, including the impact on joint warfighting, training, readiness, and research, development, test, and evaluation of weapons systems and equipment.

''(2) The availability and condition of land, facilities, infrastructure, and associated air and water space (including preservation of training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas, the preservation of testing ranges able to accommodate current or future military weapons systems and equipment, and the preservation of staging areas for the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.

''(3) The ability to accommodate contingency, mobilization, and future total force requirements at both existing and potential receiving locations to support operations, training, maintenance, and repair.

''(4) Preservation of land, air, and water space, facilities, and infrastructure necessary to support training and operations of military forces determined to be surge requirements by the Secretary of Defense, as required by section 2822 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1726).

''(5) The extent and timing of potential costs and savings of base realignment and closure actions on the entire Federal budget, as well as the Department of Defense, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs. Costs shall include those costs related to potential environmental restoration, waste management, and environmental compliance activities.

''(6) The economic impact on existing communities in the vicinity of military installations.

''(7) The ability of the infrastructure of both the existing and potential receiving communities to support forces, missions, and personnel, including quality of living standards for members of the Armed Forces and their dependents.

''(8) The environmental impact on receiving locations.

''(b) PRIORITY GIVEN TO MILITARY VALUE.—In recommending military installations for closure or realignment, the Secretary shall give priority consideration to the first four criteria specified in subsection (a).

''(c) RELATION TO OTHER MATERIALS.—The final selection criteria specified in subsection (a) shall be the only criteria to be used, along with the force-structure plan and infrastructure inventory referred to in section 2912, in making recommendations for the closure or realignment of military installations inside the United States under this part after December 31, 2003.

''(d) RELATION TO CRITERIA FOR EARLIER ROUNDS.—Section 2903(b), and the selection criteria prepared under such section, shall not apply with respect to the process of making recommendations for the closure or realignment of military installations after December 31, 2003.''.

(c) CONFORMING AMENDMENTS.—The Defense Base Closure and Realignment Act of 1990 is amended—

(1) in section 2912(c)(1)(A), by striking ''criteria prepared under section 2913'' and inserting ''criteria specified in section 2913''; and

(2) in section 2914(a), by striking ''criteria prepared by the Secretary under section 2913'' and inserting ''criteria specified in section 2913''.

SEC. 2824. REQUIREMENT FOR UNANIMOUS VOTE OF DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION TO ADD TO OR OTHERWISE EXPAND CLOSURE AND REALIGNMENT RECOMMENDATIONS MADE BY SECRETARY OF DEFENSE.

Section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3003 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 155 Stat, 1346) and amended by section 2854 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2728), is amended—

(1) in paragraph (3), by striking ''TO ADD'' and inserting ''TO CONSIDER ADDITIONS''; and

(2) by striking paragraph (5) and inserting the following new paragraph:

''(5) REQUIREMENTS TO EXPAND CLOSURE OR REALIGNMENT RECOMMENDATIONS.—In the report required under section 2903(d)(2)(A) that is to be transmitted under paragraph (1), the Commission may not make a change in the recommendations of the Secretary that would close a military installation not recommended for closure by the Secretary, would realign a military installation not recommended for closure or realignment by the Secretary, or would expand the extent of the realignment of a military installation recommended for realignment by the Secretary unless—

''(A) at least two members of the Commission visit the military installation before the date of the transmittal of the report; and

''(B) the decision of the Commission to make the change to recommend the closure of the military installation, the realignment of the installation, or the expanded realignment of the installation is unanimous.''.

SEC. 2825. ADHERENCE TO CERTAIN AUTHORITIES ON PRESERVATION OF MILITARY DEPOT CAPABILITIES DURING ANY SUBSEQUENT ROUND OF BASE CLOSURES AND REALIGNMENTS.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new section:

''SEC. 2915. ADHERENCE TO CERTAIN AUTHORITIES ON PRESERVATION OF MILITARY DEPOT CAPABILITIES DURING ANY SUBSEQUENT ROUND OF BASE CLOSURES AND REALIGNMENTS.

''(a) ADHERENCE REQUIRED.—(1) Any base closure and realignment actions under section 2914 or subsequent round of base closure and realignment, and any actions to carry out the closure or realignment of military installations as a result of such actions, shall reflect a strict adherence to the provisions of title 10, United States Code, for the maintenance of government-owned, government-operated depot-level maintenance, repair, and logistics capabilities within the Department of Defense, including the provisions of chapter 146 of such title and other applicable provisions.

''(2) No action to carry out the closure or realignment of military installations in any base closures and realignments under this part after the date of the enactment of this section may include a waiver authorized by paragraph (2) or (3) of section 2464(b) or section 2466(b) of title 10, United States Code.

''(b) BASE CLOSURE AND REALIGNMENT ACTIONS DEFINED.—In this section, the term 'base closure and realignment actions' means the following:

''(1) The preparation by the Secretary of Defense of recommendations on installations for closure or realignment under this part or any subsequent base closure law.

''(2) The review by the Commission of the recommendations referred to in paragraph (1).

''(3) The review by the President of the recommendations referred to in paragraphs (1) and (2).''.

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2831. TRANSFER OF ADMINISTRATIVE JURISDICTION, DEFENSE SUPPLY CENTER, COLUMBUS, OHIO.

(a) TRANSFER REQUIRED.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Army shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property consisting of approximately 20 acres and comprising a portion of the Defense Supply Center in Columbus, Ohio, for the purpose of permitting the Secretary of Veterans Affairs to use the property as the site for an outpatient clinic.

(b) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary of the Army shall require the Secretary of Veterans Affairs to cover costs to be incurred by the Secretary of the Army, or to reimburse the Secretary of the Army for costs incurred by the Secretary of the Army, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Secretary of Veterans Affairs in advance of the Secretary of the Army incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary of the Army to carry out the conveyance, the Secretary of the Army shall refund the excess amount to the Secretary of Veterans Affairs.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary of the Army in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Army.

SEC. 2832. LAND CONVEYANCE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Texas A&M University System of the State of Texas (in this section referred to as the ''University System''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 662 acres at Fort Hood, Texas, for the sole purpose of permitting the University System to establish on the property an upper level (junior, senior and graduate) university that will be State-supported, separate from other universities of the University System, and designated as Texas A&M University, Central Texas.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the University System shall pay to the United States an amount equal to the fair market value of the conveyed property, as determined pursuant to an appraisal acceptable to the Secretary.

(2) In lieu of all or a portion of the cash consideration required by paragraph (1), the Secretary may accept in-kind consideration, including the conveyance by the University System of real property acceptable to the Secretary.

(c) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the Secretary determine that the conveyance of the property and the establishment of a university on the property will not adversely impact the operation of Robert Grey Army Airfield, which is located on Fort Hood approximately one mile from the property authorized for conveyance.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the University System.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, ARMY NATIONAL GUARD FACILITY, SEATTLE, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Washington (in this section referred to as the ''State'') all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 9.747 acres in Seattle, Washington, and comprising a portion of the National Guard Facility, Pier 91, for the purpose of permitting the State to convey the facility unencumbered for economic development purposes.

(b) ADMINISTRATIVE EXPENSES.—(1) The State shall reimburse the Secretary for the administrative expenses incurred by the Secretary in carrying out the conveyance under subsection (a), including expenses related to surveys and legal descriptions, boundary monumentation, environmental surveys, necessary documentation, travel, and deed preparation.

(2) Section 2695(c) of title 10, United States Code, shall apply to any amounts received by the Secretary as reimbursement under this subsection.

(c) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the United States, subject to the requirement for reimbursement under subsection (b).

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART II—NAVY CONVEYANCES

SEC. 2841. TRANSFER OF JURISDICTION, NEBRASKA AVENUE NAVAL COMPLEX, DISTRICT OF COLUMBIA.

(a) TRANSFER REQUIRED.—Except as provided in subsection (b), the Secretary of the Navy shall transfer to the administrative jurisdiction of the Administrator of General Services the parcel of Department of the Navy real property in the District of Columbia known as the Nebraska Avenue Complex for the purpose of permitting the Administrator to use the Complex to accommodate the Department of Homeland Security. The Complex shall be transferred in its existing condition.

(b) AUTHORITY TO RETAIN MILITARY FAMILY HOUSING.—At the option of the Secretary of the Navy, the Secretary may retain administrative jurisdiction over that portion of the Complex that, as of the date of the enactment of this Act, is being used to provide Navy family housing.

(c) TIME FOR TRANSFER.—Not later than January 1, 2005, the Secretary of the Navy shall complete the transfer of administrative jurisdiction over the portion of the Complex required to be transferred under subsection (a).

(d) RELOCATION OF NAVY ACTIVITIES.—As part of the transfer of the Complex under subsection (a), the Secretary of the Navy shall relocate Department of the Navy activities at the Complex to other locations.

(e) PAYMENT OF INITIAL RELOCATION COSTS.—Subject to the availability of appropriations for this purpose, the Secretary of the Department of Homeland Security shall be responsible for the payment of—

(1) all reasonable costs, including costs to move furnishings and equipment, related to the initial relocation of Department of the Navy activities from the Complex under subsection (d); and

(2) all reasonable costs incident to the initial occupancy by such activities of interim leased space, including rental costs for the first year.

(f) PAYMENT OF LONG-TERM RELOCATION COSTS.—

(1) SENSE OF CONGRESS REGARDING PAYMENT.—It is the sense of the Congress that the Secretary of the Navy should receive, from Federal agencies other than the Department of Defense, funds authorized and appropriated for the purpose of covering all reasonable costs, not paid

under subsection (e), that are incurred or will be incurred by the Secretary to permanently relocate Department of the Navy activities from the Complex under subsection (d).

(2) SUBMISSION OF COST ESTIMATES.—As soon as practicable after the date of the enactment of this Act , the Secretary of the Navy shall submit to the Director of the Office of Management and Budget and the Congress an initial estimate of the amounts that will be necessary to cover the costs to permanently relocate Department of the Navy activities from the portion of the Complex to be transferred under subsection (a). The Secretary shall include in the estimate anticipated land acquisition and construction costs. The Secretary shall revise the estimate as necessary whenever information regarding the actual costs for the relocation is obtained.

(g) TREATMENT OF FUNDS.—(1) Funds received by the Secretary of the Navy, from sources outside the Department of Defense, to relocate Department of the Navy activities from the Complex shall be used to pay the costs incurred by the Secretary to permanently relocate Department of the Navy activities from the Complex. A military construction project carried out using such funds is deemed to be an authorized military construction project for purposes of section 2802 of title 10, United States Code. Section 2822 of such title shall continue to apply to any military family housing unit proposed to be constructed or acquired using such funds.

(2) When a decision is made to carry out a military construction project using such funds, the Secretary of the Navy shall notify Congress in writing of that decision, including the justification for the project and the current estimate of the cost of the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

(h) EFFECT OF FAILURE TO RECEIVE SUFFICIENT FUNDS FOR RELOCATION COSTS.—

(1) CONGRESSIONAL NOTIFICATION.—At the end of the three-year period beginning on the date of the transfer of the Complex under subsection (a), the Secretary of the Navy shall submit to Congress a report—

(A) specifying the total amount needed to cover both the initial and permanent costs of relocating Department of the Navy activities from the portion of the Complex transferred under subsection (a);

(B) specifying the total amount of the initial relocation costs paid by the Secretary of the Department of Homeland Security under subsection (e); and

(C) specifying the total amount of appropriated funds received by the Secretary of the Navy, from sources outside the Department of Defense, to cover the permanent relocation costs.

(2) ROLE OF OMB.—The Secretary of the Navy shall obtain the assistance and concurrence of the Director of the Office of Management and Budget in determining the total amount needed to cover both the initial and permanent costs of relocating Department of the Navy activities from the portion of the Complex transferred under subsection (a), as required by paragraph (1)(A).

(3) CERTIFICATION REGARDING RELOCATION COSTS.—Not later than 30 days after the date on which the report under paragraph (1) is required to be submitted to Congress, the President shall certify to Congress whether the amounts specified in the report pursuant to subparagraphs (B) and (C) of such paragraph are sufficient to cover both the initial and permanent costs of relocating Department of the Navy activities from the portion of the Complex transferred under subsection (a). The President shall make this certification only after consultation with the Chairman and ranking minority member of the Committee on Armed Services and the Committee on Appropriations of the House of Representatives and the Chairman and ranking minority member of the Committee on Armed Services and the Committee on Appropriations of the Senate.

(4) RESTORATION OF COMPLEX TO NAVY.—If the President certifies under paragraph (3) that amounts referred to in subparagraphs (B) and (C) of paragraph (1) are insufficient to cover Navy relocation costs, the Administrator of General Services, at the request of the Secretary of the Navy, shall restore the Complex to the administrative jurisdiction of the Secretary of the Navy.

(5) NAVY SALE OF COMPLEX.—If administrative jurisdiction over the Complex is restored to the Secretary of the Navy, the Secretary shall convey the Complex by competitive sale. Amounts received by the United States as consideration from any sale under this paragraph shall be deposited in the special account in the Treasury established pursuant to section 572(b) of title 40, United States Code.

SEC. 2842. LAND CONVEYANCE, NAVY PROPERTY, FORMER FORT SHERIDAN, ILLINOIS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the State of Illinois, a political subdivision of the State, or a nonprofit land conservation organization (in this section collectively referred to as the ''grantee''), all right, title, and interest of the United States in and to certain environmentally sensitive land at the former Fort Sheridan, Illinois, consisting of mostly bluffs and ravines, for the purpose of ensuring the permanent protection of the lands.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used or maintained in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to all or any portion of the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) RECONVEYANCE AUTHORIZED.—The Secretary may permit the grantee to convey the real property conveyed under subsection (a) to another eligible entity described in such subsection, subject to the same covenants and terms and conditions as provided in the deed from the United States.

(d) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary shall require the grantee to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the grantee in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the grantee.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(h) USE OF ALTERNATE CONVEYANCE AUTHORITY.—In lieu of using the authority provided by this section to convey the real property described in subsection (a), the Secretary may elect to include the property in a conveyance authorized by section 2878 of title 10, United States Code, subject to such terms, reservations, restrictions, and conditions as may be necessary to ensure the permanent protection of the property, if the Secretary determines that a conveyance under such section is advantageous to the interests of the United States.

SEC. 2843. LAND EXCHANGE, NAVAL AIR STATION, PATUXENT RIVER, MARYLAND.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the State of Maryland (in this section referred to as ''State''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately five acres at Naval Air Station, Patuxent River, Maryland, and containing the Point Lookout Lighthouse, other structures related to the lighthouse, and an archaeological site pertaining to the military hospital that was located on the property during the Civil War. The conveyance shall include artifacts pertaining to the military hospital recovered by the Navy and held at the installation.

(b) PROPERTY RECEIVED IN EXCHANGE.—As consideration for the conveyance of the real property under subsection (a), the State shall convey to the United States a parcel of real property consisting of approximately five acres located in Point Lookout State Park, St. Mary's County, Maryland.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

SEC. 2851. LAND EXCHANGE, MAXWELL AIR FORCE BASE, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the City of

Montgomery, Alabama (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of all of the Maxwell Heights Housing site at Maxwell Air Force Base, Alabama.

(b) CONSIDERATION.—(1) As consideration for the conveyance of the real property under subsection (a), the City shall convey to the United States a parcel of real property, including improvements thereon, consisting of approximately 35 acres designated as project AL 6–4 that is owned by the City and is contiguous to Maxwell Air Force Base. The Secretary shall have jurisdiction over the real property received under this paragraph.

(2) If the fair market value of the real property received under paragraph (1) is less than the fair market value of the real property conveyed under subsection (a), the Secretary may require the City to make up the difference through the payment of cash, the provision of in-kind consideration, or a combination thereof, to be determined pursuant to negotiations between the Secretary and the City.

(3) The fair market values of the real property to be exchanged under this section shall be determined by appraisals acceptable to the Secretary and the City.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,047,700,000, to be allocated as follows:

(1) For weapons activities, $6,577,953,000.

(2) For defense nuclear nonproliferation activities, $1,338,147,000.

(3) For naval reactors, $797,900,000.

(4) For the Office of the Administrator for Nuclear Security, $333,700,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for weapons activities, the following new plant projects:

Project 05–D–140, project engineering and design, various locations, $11,600,000.

Project 05–D–160, facilities and infrastructure recapitalization program, project engineering and design, various locations, $8,700,000.

Project 05–D–170, project engineering and design, safeguards and security, various locations, $17,000,000.

Project 05–D–401, production bays upgrade, Pantex Plant, Amarillo, Texas, $25,100,000.

Project 05–D–402, beryllium capability project, Y–12 national security complex, Oak Ridge, Tennessee, $3,627,000.

Project 05–D–601, compressed air upgrades project, Y–12 national security complex, Oak Ridge, Tennessee, $4,400,000.

Project 05–D–602, power grid infrastructure upgrade, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 05–D–603, new master substation, Sandia National Laboratories, Albuquerque, New Mexico, $600,000.

Project 05–D–701, security perimeter, Los Alamos National Laboratory, Los Alamos, New Mexico, $20,000,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for environmental management activities in carrying out programs necessary for national security in the amount of $6,863,307,000, to be allocated as follows:

(1) For defense site acceleration completion, $5,876,837,000.

(2) For defense environmental services, $986,470,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for other defense activities in carrying out programs necessary for national security in the amount of $658,618,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2005 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $131,000,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

SEC. 3111. EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 4601 of the Atomic Energy Defense Act (50 U.S.C. 2701) is amended by striking ''September 30, 2004'' and inserting ''September 30, 2006''.

SEC. 3112. REQUIREMENTS FOR BASELINE OF PROJECTS UNDER FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.

Subsection (a) of section 3114 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1744; 50 U.S.C. 2453 note) is amended—

(1) in paragraph (1) by inserting ''of a baseline'' after ''selection''; and

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

''(2)(A) After December 31, 2004, a project may be added to or removed from the Facilities and Infrastructure Recapitalization Program only after the Administrator submits to the congressional defense committees a notice that the Administrator has identified such project for addition or removal and has approved such addition or removal as a modification to the baseline for that program.

''(B) The Administrator may not obligate funds for any project added under subparagraph (A) until a period of 60 days has elapsed after the date on which such committees receive the notice under subparagraph (A) with respect to that project.

''(C) The authority of the Administrator to identify and approve under subparagraph (A) may not be delegated.''.

Subtitle C—Other Matters

SEC. 3131. TRANSFERS AND REPROGRAMMINGS OF NATIONAL NUCLEAR SECURITY ADMINISTRATION FUNDS.

Section 3252 of the National Nuclear Security Administration Act (50 U.S.C. 2452) is amended by adding at the end the following new subsection:

''(d) TRANSFER AND REPROGRAMMING PROCESS.—(1) The Administrator shall have sole jurisdiction within the Department of Energy to submit to Congress or the appropriate congressional committees a notice of, or request for, a transfer or reprogramming of funds of the Administration.

''(2) The functions of the Chief Financial Officer of the Department of Energy shall not apply to a notice or request described in paragraph (1), except to certify whether the funds covered by such notice or request are available.''.

SEC. 3132. NATIONAL ACADEMY OF SCIENCES STUDY ON MANAGEMENT BY DEPARTMENT OF ENERGY OF HIGH-LEVEL RADIOACTIVE WASTE.

(a) REVIEW REQUIRED.—The Secretary of Energy shall enter into an arrangement with the National Research Council of the National Academy of Sciences to carry out a study of the plans of the Department of Energy to manage the waste streams specified in subsection (b) that are not currently planned for disposal in a high-level repository.

(b) COVERED WASTE STREAMS.—The waste streams referred to in subsection (a) are the streams of high-level radioactive waste at—

(1) the Savannah River Site, South Carolina;

(2) the Idaho National Engineering Laboratory, Idaho; and

(3) the Hanford Reservation, Washington.

(c) MATTERS INCLUDED.—The study required by subsection (a) shall evaluate—

(1) the physical, chemical, and radiological characteristics of the waste referred to in subsection (b), including specifically the waste proposed to be left indefinitely in storage tanks;

(2) the probability that such waste, if left indefinitely in storage tanks, will leak into the environment and the range of potential dangers such leakage would represent;

(3) the plans of the Department for the disposal of the high-level radioactive waste that the Department had planned, before certain litigation in Federal district court in 2003 on ''Waste Incidental to Reprocessing'', to reclassify as low-level waste;

(4) treatment and disposal alternatives to the plans referred to in paragraph (3), including, for each such alternative, assessments of the technology approaches and of the implications with respect to cost, worker safety, and long-term environmental and human health;

(5) the adequacy of the plans referred to in subsection (a), including Department of Energy Order No. 435.1, to protect, for the long term, the environment and population surrounding each site referred to in subsection (b); and

(6) any other matters that the National Research Council considers appropriate and directly related to the subject matter of the study.

(d) RECOMMENDATIONS REQUIRED.—In carrying out the study, the National Research Council shall develop recommendations relating to the subject matter of the study. The recommendations shall include—

(1) recommendations for improving the scientific basis for managing the waste covered by the study, including alternative criteria for determining what waste should be managed as ''Waste Incidental to Reprocessing''; and

(2) any other recommendations that the National Research Council considers appropriate and directly related to the subject matter of the study.

(e) REPORTS.—The National Research Council shall submit to the Secretary of Energy and the congressional defense committees—

(1) not later than six months after entering into the arrangement required by subsection (a), an interim report on the study with respect to the waste proposed to be left indefinitely in storage tanks, including the tentative findings, conclusions, and recommendations with respect to such waste; and

(2) not later than one year after entering into the arrangement required by subsection (a), a final report on the study, including all findings, conclusions, and recommendations.

(f) PROVISION OF INFORMATION.—The Secretary shall make available to the National Research Council all information that the National Research Council considers necessary to carry out, in a timely manner, its responsibilities under this section.

(g) FUNDING.—Of the amounts authorized to be appropriated to the Department of Energy by

section 3102, $1,500,000 shall be available only for carrying out the study required by this section.

SEC. 3133. CONTRACT TO REVIEW WASTE ISOLATION PILOT PLANT, NEW MEXICO.

The Secretary of Energy shall enter into a contract to conduct independent reviews and evaluations of the design, construction, and operations of the Waste Isolation Pilot Plant in New Mexico as they relate to the protection of the public health and safety and the environment. The contract shall be for a period of one year and shall be renewable for four additional one-year periods, subject to the authorization and appropriation of funds for such purpose.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2005, $21,268,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2005, the National Defense Stockpile Manager may obligate up to $59,700,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. RELAXATION OF QUANTITY RESTRICTIONS ON DISPOSAL OF MANGANESE FERRO IN NATIONAL DEFENSE STOCKPILE.

Section 3306(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1391; 50 U.S.C. 98d note) is amended—

(1) in paragraph (3), by striking ''each of the fiscal years 2004 and 2005'' and inserting ''fiscal year 2004''; and

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

''(4) During fiscal year 2005, 100,000 short tons of high carbon manganese ferro of the highest grade.

SEC. 3303. REVISION OF EARLIER AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note) is amended by striking paragraphs (4) and (5) and inserting the following new paragraphs:

''(4) $785,000,000 by the end of fiscal year 2005; and

''(5) $870,000,000 by the end of fiscal year 2009.''.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary of Energy $20,000,000 for fiscal year 2005 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR MARITIME ADMINISTRATION.

There are authorized to be appropriated to the Secretary of Transportation for the Maritime Administration for fiscal year 2005 (in lieu of amounts authorized for the same purposes by section 3511 of the National Defense Authorization Act for Fiscal Year 2004)—

(1) for expenses necessary for operations and training activities, $109,300,000;

(2) for administrative expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), $4,764,000; and

(3) for ship disposal, $35,000,000, of which $2,000,000 shall be for decommissioning, removal, and disposal of the nuclear reactor and hazardous materials on board the vessel SAVANNAH.

SEC. 3502. EXTENSION OF AUTHORITY TO PROVIDE WAR RISK INSURANCE FOR MERCHANT MARINE VESSELS.

(a) EXTENSION.— Section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1294), is amended by striking ''June 30, 2005'' and inserting ''December 31, 2010''.

(b) INVESTMENT OF ASSETS IN INSURANCE FUND.—Section 1208(a) of such Act (46 U.S.C. App. 1288), is amended by striking the third sentence and inserting the following: ''The Secretary of Transportation may request the Secretary of the Treasury to invest such portion of the Fund as is not, in the judgment of the Secretary of Transportation, required to meet the current needs of the fund. Such investments shall be made by the Secretary of the Treasury in public debt securities of the United States, with maturities suitable to the needs of the fund, and bearing interest rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.''.

The CHAIRMAN pro tempore. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in House Report 108–499 and amendments en bloc described in Section 3 of House Resolution 648.

Each amendment printed in the report shall be offered only in the order printed, except as specified in Section 4 of the resolution, may be offered only by a Member designated in the report, shall be considered read, and shall not be subject to a demand for division of the question. Each amendment shall be debatable for 10 minutes, unless otherwise specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment, except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment.

It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report not earlier disposed of. Amendments en bloc shall be considered read, shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The original proponent of an amendment included in amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

The Chairman of the Committee of the Whole may recognize for consideration any amendment printed in the report out of the order printed, but not sooner than 1 hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

It is now in order to consider amendment No. 1 printed in House Report 108–499.

AMENDMENT NO. 1 OFFERED BY MR. GOODE

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GOODE:

At the end of title X, insert the following new section:

SEC. ___. ASSIGNMENT OF MEMBERS TO ASSIST BUREAU OF BORDER SECURITY AND BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

''§ 374a. Assignment of members to assist border patrol and control

''(a) ASSIGNMENT AUTHORIZED.—Upon submission of a request consistent with subsection (b), the Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to assist—

''(1) the Bureau of Border Security of the Department of Homeland Security in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

''(2) the United States Customs Service of the Department of Homeland Security in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction, components of weapons of mass destruction, prohibited narcotics or drugs, or other terrorist or drug trafficking items.

''(b) REQUEST FOR ASSIGNMENT.—The assignment of members under subsection (a) may occur only if—

''(1) the assignment is at the request of the Secretary of Homeland Security; and

''(2) the request is accompanied by a certification by the Secretary of Homeland Security that the assignment of members pursuant to the request is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

''(c) TRAINING PROGRAM REQUIRED.—The Secretary of Homeland Security and the Secretary of Defense, shall establish a training program to ensure that members receive general instruction regarding issues affecting law enforcement in the border areas in which the members may perform duties

under an assignment under subsection (a). A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

''(d) CONDITIONS OF USE.—(1) Whenever a member who is assigned under subsection (a) to assist the Bureau of Border Security or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

''(2) Nothing in this section shall be construed to—

''(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

''(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

''(e) ESTABLISHMENT OF ONGOING JOINT TASK FORCES.—(1) The Secretary of Homeland Security may establish ongoing joint task forces if the Secretary of Homeland Security determines that the joint task force, and the assignment of members to the joint task force, is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

''(2) If established, the joint task force shall fully comply with the standards as set forth in this section.

''(f) NOTIFICATION REQUIREMENTS.—The Secretary of Homeland Security shall provide to the Governor of the State in which members are to be deployed pursuant to an assignment under subsection (a) and to local governments in the deployment area notification of the deployment of the members to assist the Department of Homeland Security under this section and the types of tasks to be performed by the members.

''(g) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members assigned under subsection (a).

''(h) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2006.''.

(b) COMMENCEMENT OF TRAINING PROGRAM.—The training program required by subsection (c) of section 374a of title 10, United States Code, as added by subsection (a), shall be established as soon as practicable after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

''374a. Assignment of members to assist border patrol and control.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Virginia (Mr. GOODE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODE).

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

Mr. Chairman, I rise in support of this amendment. This amendment is a very simple amendment that would authorize the Secretary of Defense to assign members of our Armed Forces to assist the Department of Homeland Security in controlling and patrolling our borders. If troops were needed, they could be of significant assistance to prevent the infiltration of terrorists, drug traffickers, and illegal aliens, and could prevent the entry of weapons of mass destruction into our country.

I emphasize that this is optional, but it would be available with this amendment and would put to rest any case law or any arguments to the contrary about the ability of the executive branch to utilize troops on our border.

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

Mr. REYES. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. REYES) is recognized for 10 minutes.

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

I am opposed to the amendment offered by the gentleman from Virginia (Mr. GOODE), my good friend and colleague. In fact, we came to Congress together, and as my colleague knows, I spent more than 26 years in Federal law enforcement on the border between the United States and Mexico.

I was on the front lines of our Nation's war on drugs and against terrorism. I know how difficult it is to patrol and to secure our Nation's borders. And I know the need for additional resources and I surely understand the realities of the gentleman from Virginia's (Mr. GOODE) concerns.

As a combat veteran and as a member of the Committee on Armed Services and as an experienced Border Patrol agent, I understand and I appreciate the concerns of the gentleman from Virginia. However, I rise in opposition to this amendment because it is simply the wrong solution to our current problems along the border.

This amendment will send our military personnel to our borders at a time when they are already stretched thin in places like Iraq, Afghanistan, Korea, Kosovo, Bosnia, and over 100 other countries around the world. We cannot and we should not ask our military personnel to patrol our borders.

If this Congress wants to secure our borders, then let us deploy additional law enforcement officers to the border, but let us do it the right way. Let us make a commitment to hire and train 20,000 Border Patrol agents or 1,000 agents a year to be deployed along our borders until we fully staff our ports of entry and in between our ports of entry with Border Patrol agents and Customs personnel.

We should not use military personnel for these kinds of jobs. We need our military to be at their best. Patrolling our borders against illegal immigration and against drug trafficking has very minimal military value and detracts from the training with our warfighting equipment for our warfighting missions. It will also lead to decreased military training, which reduces unit readiness and overall combat effectiveness of our armed services.

We in Congress are very concerned about protecting our men and women in uniform from threats such as the improvised explosive devices. I submit that this amendment is an improvised explosive device except that instead of an IED, it is ill-advised, expensive, and detrimental to border communities in particular.

The Department of Defense, as we all know, is opposed to this amendment, has been opposed to this amendment year after year, every time it comes on this floor. Currently, requests for DOD support can be made to the Secretary of Defense either directly by a Cabinet member or through the President. The Department of Defense already plays a significant role in supporting the defense of our border, if not through armed personnel, then through activities in technology.

UAVs supporting border security are based at Fort Wachuka, Arizona. Other support comes from essential units such as the Joint Task Force 6 headquarters based in my district. It provides critical training to law enforcement personnel along the border, including engineering, barrier fencing, and lighting.

And while today, Mr. Chairman, I may not agree with the gentleman from Virginia, I do know that what he wants to do is the right thing for our country. I would, therefore, ask him now to join with me and find a way to place additional professional law enforcement personnel on the border and not military personnel that are already stretched so thin throughout the world.

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

Mr. GOODE. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from North Carolina (Mr. JONES), a fighter for veterans and soldiers.

Mr. JONES of North Carolina. Mr. Chairman, I appreciate the gentleman's amendment. And to the gentleman from Texas (Mr. REYES), and he is a friend of mine, I just happen to disagree on this issue because as the gentleman from Virginia (Mr. GOODE) explained, this amendment would not require the use of the troops on the border. It would just give an option to the Department of Defense and Homeland Security.

So this is not mandating that troops be on the border. It is just saying that this is an option.

And in fairness to the gentleman from Virginia (Mr. GOODE), I must say that this is of great concern to the people of this country. In fact, 85 percent of Americans think illegal immigration is a serious problem.

□ 1700

That is why the gentleman from Virginia (Mr. GOODE) has offered this amendment. We only have, and the gentleman from Texas (Mr. REYES) spoke to this, about 11,000 Border Patrol that patrol the Mexican border and the Canadian border, the 1,100 agents on the Canadian border and 9,900 agents on the Mexican border. There are a total of 7,000 miles, about 2,000 Mexican miles and 5,000 Canadian miles.

This, again, is not an amendment that people should see as an amendment that is trying to do anything but

help the national security of this Nation. This has nothing to do with people that want to come to this country legally. They will be welcome, as always. This has to do with people that want to come, either through the Canadian or Mexican border, to this country illegally.

I must say that this is a time when we are at war with terrorists over in Afghanistan, Iraq and other parts of the world. We know that there is a presence of terrorists down in Central and South America. We know this for a fact.

So I think, if anything, this amendment should be seen as it is: it is an option for the Secretary of Defense and the Secretary of Homeland Security, should they come together and decide it is necessary to help secure the boarders, so we can protect the American people from possible threats from terrorists or narco-terrorists or anyone that might want to come to this country illegally.

Again, as I close, I want to say that this is an amendment that gives an option, it does not mandate, it gives an option to those who are required to help protect the national security of the American people.

Mr. Chairman, I hope my colleagues on both sides of the aisle will look at this amendment for what it is.

Mr. REYES. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON), our distinguished ranking member from the Committee on Armed Services.

Mr. SKELTON. Mr. Chairman, all one has to do is listen to the debate that we have had on this floor today. We are short of troops in the United States Army. We help correct that in this bill by authorizing, through the supplemental, 10,000 additional Army troops, 3,000 additional Marine troops; and, hopefully, this will continue for the next 3 years.

We are short of troops. Go anywhere you can and talk to our soldiers, whether it be here within the continental United States, Fort Leonard Wood, or wherever, Fort Jackson, you pick it, or go somewhere overseas; go to Iraq, Afghanistan, and talk to those young folks in uniform. They are stretched, and they are strained. As a matter of fact, we brought it up on the floor earlier today; 4,000 Army soldiers are being transferred out of South Korea, a brigade, into Iraq.

This is exhibit A. It is not a good idea to do this. This is for Border Patrol and police work.

Mr. GOODE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, for almost the past 3 years, this Congress and this Nation have been intent on what do we do to protect our homeland. In that same period of time, we have sent military forces to protect the boarders of Kuwait, Afghanistan, Iraq, the Balkans and you name it. And the great irony that persists in the minds of the American people is, why can we not secure our own borders?

I have been to JADF–6 with the gentleman from Texas (Mr. REYES), and what the military told me there was that some of the most valuable training that the helicopter pilots and others had was when they worked in cooperation at JADF–6, because the terrain and the training they received in trying to patrol the borders, in cooperation with the Border Patrol and other civilian police, was the most valuable training they had.

Right now, when we train our military forces, we divide them up into those who are going to be the aggressors to see if they can penetrate the lines in a training exercise. Every day we have thousands of aggressors who penetrate our border. Every year we have hundreds of thousands who penetrate our border. The American people want to know why are we allowing that to happen.

The greatest training we could give to our Reserve and National Guard, and even our active duty forces in some instances, would be to work in cooperation with our civilian law enforcement to try to make sure that our borders are secure.

Now, what is wrong with that? That is the question the American people are asking. We have a chance to answer it by saying we are going to do something about it by passing this amendment.

Mr. REYES. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from California (Mr. CUNNINGHAM), who knows and understands the issues that border communities have to face.

Mr. CUNNINGHAM. Mr. Chairman, I come from a border area, San Diego, California; and we have thousands come across our border, not just from Mexico, from other places as well.

I used to think this was a good amendment, until you start thinking about it. You just do not send a Marine or someone in the Army to the border. You have to provide bivouacs, food, transportation, hospitals, training; and by the time you look at the cost, we are much better off to put additional money into trained Border Patrol, in my opinion.

There is a need for border security. That is real, and that is why my friends, I am sure out of frustration, are offering this amendment, and it is a good-intentioned amendment. But when you take a look at what it actually does, with our military so thin today and so drawn out, it would be disastrous, I think, for our men and women in the service itself.

I have heard people say that people coming across the border illegally do not have rights. They do. And you need people that are trained in that manner to know what those rights are, to be able to say ''alto'' when necessary, and to understand the people that are coming across.

Mr. GOODE. Mr. Chairman, I yield 2½ minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I would like to relate an incident that I think is very helpful in understanding this situation and also the effectiveness of an amendment of this nature. A little over a year and a half ago, I had the opportunity to observe an exercise on the northern border, our northern border with Canada. It was in a place about 10 miles north of a place called Bonner's Ferry, Idaho.

This exercise was 2 weeks in duration, and it was trying to determine to what extent we could use the military, in this case 100 Marines, for the purpose of trying to defend about 100 miles of border. They were not just 100 Marines. There were three UAVs, three unmanned aerial vehicles they used, and also two radar stations.

While I was there, I observed the UAVs picking up four people coming across on all-terrain vehicles carrying 400 pounds of drugs. A little bit later they caught a plane trying to come in under the radar; but it could not, and we interdicted it.

Let me explain what this meant. The Marines themselves did no interdictions. They had nothing to do with stopping the actual people who were coming across. But they were working in concert with the Forest Service and the Border Patrol. So when they identified the problem, they simply radioed for help from the Border Patrol, the Border Patrol got in a helicopter, came down where they were supposed to, and interdicted the people. That is the way it worked.

At the end of the 2 weeks, I have the distinct feeling, and I guess you have to believe what I observed there, that nothing came across that 100 miles of border without us knowing about it.

At the end of the 2 weeks, as we were leaving, the commandant of that Marine detachment of 100 Marines said to me, this is the best exercise we have ever, ever had. This is the best training we have ever done, because, he said, number one, it is real-time; number two, we are trying to stop real bad guys from coming into our country; and, he said, number three, it is in the most difficult terrain in the world.

If you have been close to Bonner's Ferry, Idaho, it is beautiful; but it is absolutely the most difficult terrain you can imagine. No roads.

So we can do it. The question is whether or not we have the will to do it. That is what a vote on this amendment will establish.

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

It appears to me, Mr. Chairman, we are talking on one level, and my colleagues are talking on another level. We are saying that we do not have the military resources and do not have the

luxury of doing exactly what my colleague from Colorado just talked about.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. ORTIZ), a former sheriff who knows and understands and lives in a border community.

Mr. ORTIZ. Mr. Chairman, with all my respect to my good friend from Virginia, I understand about our borders; but there is a right way to do it and a wrong way to do it.

To begin with, I think that my ranking member just stated that we are moving 3,600 troops from Korea to Iraq because we do not have enough troops. Can you imagine what kind of signal this is sending to our friends in South Korea, what kind of signal it is sending to our friends in the Pacific Ring, that we are removing those troops because we do not have enough now?

I have been on both sides. I have been a law enforcement official, and I have been in the military. The Border Patrol has an extensive training school to deal with human beings. As a military guy, when I was in the military, they trained me how to kill people, especially the enemy.

So I do not think this is the way to do it, with all due respect. If we think we need to protect our borders more, the answer is hire more Border Patrol personnel or immigration.

Mr. GOODE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. SAXTON), the chairman of the Committee on Armed Services Subcommittee on Terrorism, Unconventional Threats and Capabilities.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of the amendment being offered by the gentleman from Virginia (Mr. GOODE).

Mr. Chairman, during the 1980s, and during the 1990s, there were many of us who warned that some day terrorism would be an issue that we would have to deal with in this country. Today, reports indicate that terrorist groups are functioning in parts of South America, as well as Mexico, in an effort to cross through the U.S.-Mexican border. It is clear that all possible steps must be taken in order to prevent this.

I would point out that both in Colombia and in the tri-border area, which is an area where the borders of Argentina, Paraguay and Brazil meet, there are large numbers of people who offer the potential to become a serious problem in our country. If anyone doubts that, there are two books that have recently been published by the Rand Corporation: ''Arms Trafficking and Colombia,'' and ''Colombian Labyrinth: The Synergy of Drugs and Insurgency and Its Implications for Regional Stability.''

These are serious issues. This amendment will accomplish the desired goal by providing the Department of Defense and our Commander in Chief the option of using military force to secure the border if it becomes necessary.

This amendment does not require the use of troops on the border, and will, most importantly, not affect force-readiness or overburden our military. Instead, it will enable the Secretary of Defense to respond to a request by the Secretary of Homeland Security to allow the use of military personnel to defend against this national security threat.

Just as many people did not want to hear it in the 1980s and people did not want to hear it in the 1990s, and then 2001 occurred, this is a new area of concern which must be dealt with.

The Secretary will also have the ability to authorize assistance for the U.S. Customs Service to prevent entry of weapons of mass destruction, drugs and other terrorist items.

Finally, this amendment is a commonsense approach which will give the highest levels of our government an important tool necessary to combat threats against our national security here at home.

□ 1715

I commend the gentleman from Virginia (Mr. GOODE) for bringing it forward, and I urge my colleagues to support it.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume. I would just say to my colleague, the argument is made here that the effort in Iraq is part of homeland security and extending protection of our homeland there. Now we are hearing comments that this proposal retracts that to the homeland security border. We cannot have it both ways.

Mr. Chairman, I yield 1 minute to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), who has made repeated trips to the border and knows and understands what these issues mean to border communities.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman.

We have spent a number of hours, days, months and years focusing on the border issues, both north and south. I thank the distinguished gentleman from Texas (Mr. REYES) for his leadership.

Let me say what the issues are to the American public and to my colleagues. We already have the authority for the civilian government to call in the United States military in times of danger or in need.

Secondarily, we are undermining the very fine Border Patrol agents and law enforcement agents who are prepared to defend our borders with the necessary resources and the necessary equipment.

Listening to the deputy chief of Border Patrol in our testimony yesterday in the Committee on the Judiciary, in a hearing, he is prepared and equipped. We just need the resources.

Lastly, this is not a Nation that wants to have a standing military at our border and to jeopardize both the lives of our military and others at these borders. We are able to handle this matter with the civilian forces we have, adding more resources. And I would frankly say, this is both bad policy and bad judgment, and it is frankly un-American.

I would ask my colleagues to vote against this amendment and I appreciate the interest that is given to this particular topic.

Mr. REYES. Mr. Chairman, I am prepared to close.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman is recognized for a 1½ minutes.

Mr. REYES. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore. The other side has closed. The gentleman from Texas (Mr. REYES) has the right to close.

Mr. REYES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this bill before us provides for cooperation between our Armed Forces and Federal law enforcement agencies to combat terrorism, drug trafficking, and illegal immigration.

Recent history shows us that there is no impediment to cooperation between the Department of Defense, that is opposed to this amendment, and our border law enforcement agencies.

It is also worth remembering and reiterating that in the event of a crisis, the President already has the authority. Let me repeat, the President today already has the authority to place our military assets or whatever assets he deems necessary and move them to protect the homeland. It is for these reasons that the Department of Defense has always opposed this amendment whenever it has been presented here on the House floor.

Essentially, the amendment grants the Secretary of Defense any authority that he already has under title 10 of the U.S. Code.

For that reason, Mr. Chairman, it is imperative that we understand that we cannot continue to debate an issue that further stresses and further puts military personnel in a situation that compounds and exacerbates the already evident pressure of our armed services. It is important that our colleagues understand that a vote for this amendment is a vote that may feel good, that may seem right, that may be politically expedient, but it is not the right thing to do.

I urge all of my colleagues to vote against the Goode amendment.

The CHAIRMAN pro tempore. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from Virginia (Mr. GOODE).

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

Mr. GOODE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered

by the gentleman from Virginia (Mr. GOODE) will be postponed.

AMENDMENT NO. 2 OFFERED BY MRS. DAVIS of california

Mrs. DAVIS of California. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mrs. DAVIS of California:

Add at the end of title VII the following new section:

SEC. 723. LIMITING RESTRICTION OF USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES TO PERFORM ABORTIONS TO FACILITIES IN THE UNITED STATES.

Section 1093(b) of title 10, United States Code, is amended by inserting ''in the United States'' after ''Defense''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentlewoman from California (Mrs. DAVIS) and the gentleman from Kansas (Mr. RYUN) each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment allows military personnel and their family members serving overseas to use their own funds to obtain safe, legal abortion service in overseas U.S. military hospitals.

As a former military spouse who lived overseas, I understand what this amendment means for the more than 100,000 women who presently reside on overseas military bases.

Current law leaves our servicewomen with two grim options. They can go home after they receive authorization and find space on a military transport or they can seek an abortion in an unsafe, unsanitary foreign hospital. Any way you look at it, both options force them to gamble their health.

These women, who have already sacrificed so much, must also forfeit their privacy, their health and the very liberties they are fighting to protect. I believe, Mr. Chairman, that they deserve better.

So let me clarify a few points about this amendment. No Federal funds would be used. This amendment affects only U.S. military facilities overseas and it does not violate host country laws. It does not compel any doctor who opposes abortion on principle to perform one. It will, however, open up reproductive services at bases in countries where abortion is legal.

I hope Members will support our servicewomen by supporting the Davis-Sanchez-Harmon amendment.

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

Mr. RYUN of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I stand in strong opposition to the Davis amendment. This amendment would simply turn our military hospitals overseas into abortion clinics by allowing self-funded abortions. Currently, self-funded abortions are already available in these institutions when the life of the mother is in danger and when the pregnancy is as a result of rape or incest.

There is no demonstrated need for expanding abortion access. This amendment does not seek to address an operational requirement or ensure access to an entitlement. It is simply aimed at introducing this very contentious and divisive issue into the defense authorization process.

Proponents of this amendment often claim that female service members and dependents overseas are denied equal access to health care, effectively putting their life and health in harm's way. Simply wrong. If a woman chooses to have an abortion at an abortion clinic, they are accessible overseas. If a woman prefers to have an abortion in the United States, that is available to her under current law.

Although this amendment is presented by the other side as providing for solely self-funded abortions, the fact is the American taxpayer will be forced to pay for the use of the military facility, the procurement of additional equipment needed to perform abortions, and the use of military personnel to perform abortions.

Military doctors did not sign up to end a baby's life. They joined up to save the lives of servicemen and women. It would be wrong for Congress to force these doctors to perform a procedure that many may feel morally objectionable.

I ask my colleagues to vote against the turning of our military hospitals into abortion clinics and to vote against the Davis amendment.

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

Mrs. DAVIS of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ), who has championed this issue for many years.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank the gentlewoman from California (Mrs. DAVIS) for introducing this important and very necessary amendment.

Members of the Armed Forces are entitled to a quality of life equal to that of the Nation they are pledged to defend. Whether you are prochoice or prolife, agree or disagree with the merits of reproductive freedom, the fact remains, women of the United States have a constitutional right to these services.

I want to read a little excerpt from a letter I received from a general in the Army who goes on to say, ''One day, a noncommissioned officer, an NCO, who was one of the battalion's senior women, came into my office and asked for permission to take a day off later in the week and to have the same take-off for a young soldier in the battalion. She said the soldier was pregnant and wanted an abortion and yet had no way to get an abortion at the U.S. Army medical facility in Germany where they were stationed.

''She had got information about a German clinic in another city, and they were going there for the procedure. The soldier did not have enough money to return to the U.S., saved for the abortion, nor did she want to talk to her chain of command about this issue. I told the NCO to go with her and to let me know what happened.

''Later, the NCO told me that the experience had been both mortifying and painful. No painkiller of any sort was administered for the procedure. The modesty of this soldier and the other women at the clinic had been violated due to cultural differences, and neither she nor the soldier understood German.''

It was a problem. It was a bad experience for all that, at a very vulnerable time, this American who was serving her country overseas could not count on the Army to give her the care that she needed.

What makes the situation of a soldier different from that of a civilian woman? She is subject to the orders of the officers appointed over here. Every hour of the day belongs to the U.S. Army and she must have her seniors' permission to leave her place of duty. She makes very low pay and so relies on the help of friends and family to pay for travel for medical care that is not given by the Army.

I urge my colleagues to vote for this amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Chairman, once again, we come to the floor of this body to debate the issue of abortion in overseas military hospitals, and once again, we must do honor to the consciences of military caregivers and to the taxpayers who fund these facilities. Young men and women entering the medical divisions of the armed services are dedicated to protecting life. To ask them to take the lives of unborn children is simply wrong.

In fact, when the Clinton administration overturned the DOD policy against abortion in military facilities between 1993 and 1996, military physicians refused to perform or assist in elective abortions, thus forcing the administration to spend additional tax dollars on recruiting and hiring civilians who were willing to do the abortions.

In a country where 56 percent of Americans oppose abortion and where military physicians have refused to do elective abortions, it is unconscionable for our government to condone abortion by turning military hospitals into abortion clinics.

The language before us today has been debated and rejected year after year since 1996. I urge my colleagues again to defeat the Davis amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I would like to express my support for the Davis amendment. This amendment would provide fairness and equity to women in the military who are serving overseas.

Currently, women who have volunteered to serve our country and female military dependents are barred from exercising their legally guaranteed right to choose simply because they are stationed overseas.

Military women should be able to depend on their base hospitals for all of their health care needs. A repeal of the current ban on privately funded abortions would allow military women and dependents based overseas the same range and quality of medical care available to women in the United States. No Federal funds would be used to perform these procedures and no undue burden is placed on military physicians overseas.

Finally, Mr. Chairman, this amendment simply repeals the statutory prohibition on abortions in overseas military hospitals.

I hope we can all support this amendment and ensure that American women overseas are afforded access to quality reproductive services, as they would be if they were home in the United States.

I urge my colleagues to support this amendment.

Mr. RYUN of Kansas. Mr. Chairman, how much time remains on both sides and who has the right to close?

The CHAIRMAN pro tempore. The gentleman from Kansas (Mr. RYUN) has 7 minutes remaining. The gentlewoman from California (Mrs. DAVIS) has 5 minutes remaining. The gentleman from Kansas has the right to close.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Chairman, I urge my colleagues to oppose this amendment that would turn overseas military hospitals into abortion clinics.

The amendment corrupts the mission of our military hospitals which are dedicated to healing and nurturing life by turning military hospitals and doctors and nurses into on-demand abortion providers.

□ 1730

Again, when President Clinton allowed abortions in military facilities during the mid-1990s, military physicians, nurses and other health care professionals refused to perform these abortions. They were clear in their message. They serve America to save lives, not take unborn American lives.

This amendment, which the House has rejected every year since 1996, is a misguided attempt by abortion activists to insert a harmful provision into this vital legislation designed to authorize funds for the defense of our Nation.

I urge my colleagues to reject this attempt to alter the purpose of our overseas military hospitals, which provide life-saving care to the men and women in our military and their families.

Reject this amendment and allow our military doctors and nurses to continue to save lives, rather than abort them.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the gentlewoman for her leadership on this issue.

This commonsense amendment would simply allow military women and their dependents that are stationed overseas to exercise the same rights as women in this country, the right to comprehensive family planning, including access to a safe, legal abortion.

It is important to point out that this amendment would not allow one cent of taxpayer money to fund these procedures. It simply allows women to use their own money, mind you, their own money to pay for this procedure in an overseas military facility.

It makes no sense that we have asked these soldiers to serve our country, and yet we cannot serve them with basic, comprehensive health care.

Let us reject this administration's ongoing, politically motivated war on women; and let us start by adopting this important, commonsense amendment. Let us stop discriminating against women in the military. I urge a ''yes'' vote.

Mr. RYUN of Kansas. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Virginia (Mrs. JO ANN DAVIS), my colleague on the Committee on Armed Services.

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, for the last 8 years, without fail, this body has voted against funding abortions in DoD medical treatment facilities, and I trust today that we will make that 9.

Mr. Chairman, American taxpayer dollars should not be used to pay for abortions directly or indirectly, wherever they occur. Supporters of this amendment claim that taxpayer dollars would not actually pay for abortions. However, I want to point out that this is simply not true. Taxpayers would be paying for these abortions by subsidizing the cost of the physician services and the abortion equipment. Our current law protects against this, and I urge my colleagues to keep this commonsense policy intact.

As a member of the House Committee on Armed Services, I am strongly committed to our national defense. I am also strongly committed to preserving life in all its stages.

I urge my colleagues to choose life and oppose the Davis amendment.

Mr. Chairman, I rise today in opposition to the amendment offered by my colleague from California. For the last 8 years, without fail, this body has voted against funding abortions in DOD medical treatment facilities. I trust that today we will make that 9.

Military physicians and personnel are tasked to provide life saving and nurturing care to our men and women of the armed services. By requiring them to conduct elective abortions, we are asking them to facilitate in the exact opposite of their mission.

Particularly at a time when their resources are devoted to addressing the needs of service members suffering from wounds and trauma sustained in Operations Iraqi Freedom and Enduring Freedom, we must continue to support the doctors and nurses of the military in their effort to save and sustain life.

Mr. Chairman, American taxpayer dollars should not be used to pay for abortions, directly or indirectly, wherever they occur. Supporters of this amendment claim that taxpayer dollars would not actually pay for abortions, however I would point out that this is simply not true. Taxpayers would be paying for these abortions by subsidizing the costs of the physician services and the abortion equipment. Our current law protects against this, and I urge my colleagues to keep this common sense policy intact.

As a member of the House Committee on Armed Services, I am strongly committed to our national defense. I am also strongly committed to preserving life in all its stages. I urge my colleagues to choose life and oppose the Davis amendment.

Mrs. DAVIS of California. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I rise in support of the Davis amendment authored by the distinguished gentlewoman from San Diego, the Pacific home of the United States Navy.

When I put on the uniform, I did it to defend the Constitution and the rights it protects for Americans. I must say that I have an emotional attachment to the rights of Americans in uniform. Our current law denies reproductive rights for women in uniform, just when they need it most, when they are deployed overseas.

I was stationed at Incirlik Air Base in Turkey for part of Operation Northern Watch against Iraq. The thought of forcing my fellow women in uniform to seek care in some Turkish clinic when we have a perfectly good U.S. military hospital on base is a tragedy. Imagine when you need care most being forced to communicate in Turkish or Korean or Arabic to get care guaranteed to you by the United States Supreme Court.

Women in uniform should have equal rights. No, no. Women in uniform should have more than equal rights, especially when they are on the frontier of freedom.

Mr. RYUN of Kansas. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. SMITH), the chairman of the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, recently, Dr. Alveda King, niece of the late Dr. Martin Luther King, said about abortion, ''How can the dream survive if we murder the children?''

Dr. King, who has had an abortion herself but is now pro-life and bravely

speaks out, went on to say, ''We can no longer sit idly by and allow this horrible spirit of murder to cut down, yes cut out and away our unborn. This is the day to choose life,'' she went on to say. ''We must live and allow our babies to live. If the dream of Dr. Martin Luther King is to live,'' Dr. King went on to say, ''our babies must live.''

Mr. Chairman, the Davis amendment turns Dr. Alveda King's dream, our babies must live, into a nightmare. The Davis amendment will force pro-life Americans to facilitate abortion and subsidize the slaughter of innocent children. Women deserve better than abortion, Mr. Chairman. The Davis amendment turns overseas military hospitals into abortion mills.

This amendment comes on the heels of a new Zogby poll, I would just point out to my colleagues, that clearly shows a significant majority of Americans now reject abortion in most circumstances including women, 56 percent; African Americans, 62 percent; Hispanics, 79 percent; and young adults, 61 percent. Americans, Mr. Chairman, in ever growing numbers are finally, at long last coming to understand that abortion is violence against children and that abortion exploits and harms women.

Americans, at long last, are shocked to learn that abortion methods dismember, mutilate, decapitate, and chemically poison the child. The debate on the violence of the partial-birth abortion has exposed the truth that abortion is child abuse in the extreme.

Mr. Chairman, faced with the numbing reality of an abortionist jamming scissors into the brain of a partially born child so the brains could be sucked out, Americans have begun to connect the dots. They are now seeing that all abortion methods, not just partial-birth abortion, are cruel and all-too-common punishment against helpless and innocent babies.

Mr. Chairman, reject this amendment, the Davis amendment, so that babies and their mothers will live.

Mrs. DAVIS of California. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I just hope that none of my colleagues on the other side of the aisle ever are faced with a daughter or a granddaughter or a daughter-in-law or a niece serving overseas or as a military wife that needs an abortion and finds themselves in a hospital in Turkey.

Over the last 2 years, we have all stood here and voiced our support for our troops over and over again. We cast resolutions of support. We are demanding that our troops have adequate training and equipment, and there is no better way to show them how we support them than finally giving women in our Armed Forces and the wives and daughters of the men in our military the ability to exercise their constitutional right to obtain a free, no, not a free, a paid-for by-the-person out-of-their-own-pocket safe abortion using the money that they have, but in a military hospital.

We routinely ask our servicewomen to put their lives on the line in defense of our country and our country's ideals. That is why we must continue to require that this country provide them with what could save their lives, and that would be an abortion in a military hospital.

Mr. RYUN of Kansas. Mr. Chairman, I am pleased to yield 30 seconds to the gentleman from the great State of Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding the time.

I rise in opposition to this amendment. I was on active duty in the Army medical corps when this policy was put in place by the Reagan administration, and it was very well received by the medical personnel in the corps.

The reason it was very well received is because most medical professionals do not want to have anything to do with abortion procedures. They recognize them for what they are. They are very brutal acts. Even those who are pro-choice will say, I am pro-choice, but I would never do an abortion.

When I was on active duty, this was very well received by the troops in the medical department, and I think it would be a mistake to overturn this policy. Vote against the amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield for a unanimous consent request to the gentleman from Florida (Mr. HASTINGS)

(Mr. HASTINGS of Florida asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Florida. Mr. Chairman, I rise in strong support of the measure offered by the gentlewoman from California (Mrs. DAVIS).

A woman's right to choose what happens to her body has been reaffirmed as constitutional time after time by the Supreme Court. The Majority's decision to insert an anti-choice provision into a bill funding our Armed Services is troubling, and quite frankly, offensive.

If a servicewoman or female dependent of someone in our military chooses to have a procedure done to her body with her own funds, regardless of her occupation or where she is stationed, then she ought to be permitted to do so. And she ought to be able to have it done by a U.S. military doctor. It's her body. It's her money. It's just that simple.

It's unfortunate that Representative DAVIS' amendment is even needed. It's just shameful that the conservative wing of the Republican Caucus is trying to invoke controversy into a bill that all of us want to support. I cannot stand idly by while some attempt to demagogue those of us who believe in a woman's right to choose. No one is going to tell me what I can or cannot do with my body, so I certainly am not going to start telling women what they can do with theirs.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentlewoman for the time.

There are currently over 20,000 women serving overseas. Each one of these women deserves the best available health care services; but under current law, women serving overseas effectively lose their constitutional right to choose at U.S. military bases where they literally cannot even pay for this medical procedure with their own money.

This amendment reverses a discriminatory policy against women. While women are bravely serving this country overseas, some Members of this body, many of whom have never served in the military, are voting to take away the constitutional rights that they enjoy in this country. It is wrong to take away their rights merely because they are in the military service.

Let us put this vote in perspective. It is one of over 200 anti-choice, anti-woman votes that have passed this Congress since the Republican majority took control in 1994.

Mr. RYUN of Kansas. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Kansas (Mr. RYUN) has 2½ minutes remaining. The gentlewoman from California (Mrs. DAVIS) has 1 minute remaining. The gentleman from Kansas has the right to close.

Mr. RYUN of Kansas. Mr. Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Chairman, I rise in opposition to this amendment. In fact, the House has rejected this same amendment for the last, oh, I do not know, about 8 years or 9 years, 2003 back to 1996.

The Committee on Armed Services rejected this amendment over and over again. In fact, it was not even offered in committee this year.

President Clinton signed the current provision into law on February 10, 1996. The National Defense Authorization Act was signed into law to prevent the DoD medical treatment facilities from being used to perform abortions except where the life of the mother is endangered or in cases of rape or incest.

The Davis amendment would repeal that provision. It reopens the issue and attempts to turn DoD facilities into abortion clinics. These facilities are not abortion clinics; they are for healing the sick and the wounded.

Supporters of this amendment act as those pregnancy is a disease. That is certainly not the case. Ask any mother.

Support of this amendment would change the nature of our medical facilities. Our military is overseas for a reason, to support and defend people's lives. Our military treatment centers should do the same, and we should retain this life provision for our military treatment centers and forbid them from taking innocent human life.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Chairman, how often in the last year have we heard the phrase in this country saying we support our troops? I have heard it a lot on this floor, but those who oppose this amendment have a new slogan. We support our troops except for their constitutional rights.

The women of this country are in the streets of Baghdad and Nasiriyah and Fallujah today trying to install the concept of individual liberty and individually, constitutionally protected rights in Iraq while their Members of the U.S. Congress are trying to deny it back here in Washington, D.C.

Do not deny this amendment. Do not send the proud women in our armed services to the back streets of Baghdad. They are serving to establish liberty in Baghdad, not back-street abortions. Do not go back to those old days while we fight new battles trying to establish liberties overseas. Pass this amendment.

Mr. RYUN of Kansas. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from Kansas (Mr. RYUN) has 1 minute remaining.

Mr. RYUN of Kansas. Mr. Chairman, I yield 45 seconds to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in opposition to this amendment.

The Davis amendment would force military medical personnel to be complicit in the taking of innocent human life. It would divert precious medical resources such as staff, time, equipment, and facilities away from the front lines of battle.

Let us not forget, abortion is violence. It is the most violent form of death known to mankind. It is violence against women and children. We should not be subsidizing it.

The American working family should not be forced to fund the extremists' health care agenda of this amendment. Our military should not sacrifice what it needs on the front lines.

I urge my colleagues to vote ''no'' on the Davis amendment.

□ 1745

Mr. RYUN of Kansas. Mr. Chairman, I yield myself the balance of my time, and in conclusion, I urge my colleagues to oppose this amendment. Our military installations should be there to save lives. Doctors have signed up to save lives, not take lives, and I urge a ''no'' vote on the Davis amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, thousand of brave women are serving overseas, fighting to protect and defend the liberties Americans enjoy every day. These brave women should not be denied their fundamental rights simply because they are serving abroad.

This Amendment allows military women and military dependents stationed overseas to exercise the same rights as women in this country to access a safe, legal abortion.

This Amendment ensures equal access to comprehensive reproductive health care for all U.S. servicewomen and dependents, regardless of where they are stationed.

Current law limits the range of reproductive-health services provided to servicewomen and military dependents serving overseas, even when they pay for these services with their own money.

This amendment does not require the Department of Defense to pay for abortion services; it would simply repeal the current ban on privately funded abortion care at overseas U.S. military facilities.

Women serving in the military overseas need to be able to depend on their base hospitals for medical care, especially when stationed in areas where local health care facilities are inadequate. The current ban may cause a woman seeking abortion services to delay the procedure while she looks for a safe provider, or may force a woman to seek an illegal, unsafe procedure locally.

Women would use their own money to pay for an abortion in an overseas military facility. No taxpayer dollars would pay for an abortion under this amendment.

The current language in the Department of Defense Authorization language degrades women serving our country overseas. It also jeopardizes servicewomen and dependents health by forcing them to wait until they can return to the U.S.—which can often be medically dangerous—or to seek an abortion in an unsafe, unsanitary foreign hospital.

DOD language penalizes service women and military dependents service abroad by prohibiting them from exercising their constitutional right to choose.

Roe v. Wade eliminated back alley abortions in this country. This amendment ensures our service women are not forced into the same dangerous procedures as they serve overseas.

This is not a debate about whether abortion is right or wrong. Abortion is legal. If it is legal for a woman here in America to exercise her right to choose, then it should be legal for an American woman serving her country overseas.

Mr. FARR. Mr. Chairman, I rise today to support the Davis Amendment and our servicewomen stationed around the world. These brave soldiers, sailors, and air women have dedicated themselves to serving our country, and the least we should do is give them access to the highest quality healthcare available. Currently, servicewomen and female military dependents are prohibited from using their own funds for abortions at overseas military hospitals. Military women should be able to depend on their base hospitals for all their health-care services, but instead they are forced to compromise their medical privacy and wait for space on a military transport, or to seek an abortion in a foreign hospital. It is unacceptable to endanger the health of our servicewomen by denying them safe and timely medical care.

The Davis amendment would allow military women and military dependents stationed overseas to exercise the reproductive rights they are entitled to as Americans. This amendment would not require the government to pay for abortions, and it would not force medical providers to perform abortions. All branches of the military have provisions that permit medical personnel who have moral, religious, or ethical objections to abortion not to participate in the procedure; this amendment would not change this.

We can't violate the rights and liberties of our troops who are fighting to protect our rights and liberties. I urge my colleagues to support this amendment.

Mr. MCHUGH. Mr. Chairman, today on rollcall No. 197 Davis of California amendment to the defense authorization bill for fiscal year 2005, I was inadvertently recorded as having voted aye and should have been recorded as voted nay. I respectfully request the record reflect that I have voted in the negative on such amendments in previous years. I ask unanimous consent that this statement appear in the RECORD immediately following the vote.

Mr. COLLINS. Mr. Chairman, I rise to state my strong opposition to the Davis Amendment to H.R. 4200, which would allow abortions to be performed at our overseas military hospitals.

Throughout my years in Congress, I have consistently opposed efforts to allow abortions to take place in taxpayer funded military hospitals, and a majority in Congress has consistently opposed these efforts as well. The Davis amendment would repeal the current ban on abortions in our military hospitals, which was signed into law in 1996, and would seek to turn our military medical facilities into abortion clinics. If the Davis amendment is adopted, not only could taxpayer funded facilities be used to support abortion on demand, but resources could be used to search for, hire, and transport new personnel simply so that abortions could be performed. These facilities which are dedicated to the save the lives of the men and women in our Armed Forces should not be used to take the lives of innocent, unborn children.

I urge all of my colleagues in the House to vote to support life and to oppose the Davis amendment.

Mr. STARK. Mr. Chairman, I rise today to support Representative SUSAN DAVIS' amendment to the Defense Authorization bill to repeal the complete abortion ban for women in the military. This amendment is a reasonable compromise. It would not require the U.S. Government to fund abortions at military facilities around the world. It would simply allow U.S. servicewomen, or military dependents, to use their own funds for abortion care at overseas military hospitals.

Our brave servicewomen enroll in the military to protect the civil liberties of American citizens. Unfortunately, under existing law the very liberties they are trying to protect are being taken away from them through this draconian policy.

As a result, our servicewomen must sometimes resort to illegal, unsafe procedures to get an abortion. In the military, pregnancy is often cited as an attribute that makes women less desirable as soldiers, but at the same time the military institution denies women safe and reasonable access to terminate a pregnancy if she chooses.

Servicewomen should have comprehensive reproductive healthcare regardless of where they reside. I urge my colleagues to show support for our servicewomen, and vote yes to repeal this overreaching abortion ban for women in the military.

Mrs. LOWEY. Mr. Chairman, I rise in strong support of the Davis amendment, which would allow military women and dependents stationed overseas to obtain abortion services

with their own money. I want to thank my colleague SUSAN DAVIS for her fine work on this important issue.

More than 100,000 women live on American military bases abroad. These women risk their lives and security to protect our great and powerful Nation and deserve the freedoms of our country. And yet, these women—for the past 8 years—have been denied the very Constitutional rights they fight to protect.

My colleagues, this restriction is un-American, undemocratic, and would be unconstitutional on U.S. soil. How can this body deny constitutional liberties to the very women who toil to preserve them? Mr. Speaker, as we work to promote and ensure democracy worldwide we have an obligation to ensure that our own citizens are free while serving abroad. Our military bases should serve as models of democracy at work, rather than examples of freedom suppressed.

This amendment is not about taxpayer dollars funding abortions because no Federal funds would be used for these services. This amendment is not about health care professionals performing procedures to which they are opposed because they are protected by a broad exemption. This amendment is about ensuring that all American women have the ability to exercise their Constitutional right to privacy and access safe and legal abortion services.

As our Nation works to preserve our freedom and democracy, now is not the time to put barriers in the path of our troops overseas. We know that the restriction on abortion does nothing to make abortion less necessary—it simply makes abortion more difficult and dangerous.

It is time to lift this ban, and ensure the fair treatment of our military personnel. I urge passage of the Davis amendment.

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

The CHAIRMAN pro tempore (Mr. SWEENEY). The question is on the amendment offered by the gentlewoman from California (Mrs. DAVIS).

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

Mrs. DAVIS of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Mrs. DAVIS) will be postponed.

It is now in order to consider amendment No. 3 printed in House Report 108–499.

AMENDMENT NO. 3 OFFERED BY MR. HUNTER

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. HUNTER:

At the end of subtitle A of title XII (page 424, after line 12), insert the following new section:

SEC. ___. SENSE OF CONGRESS CONCERNING THE ABUSE OF PERSONS IN CUSTODY IN IRAQ.

It is the sense of Congress that—

(1) the abuses inflicted upon detainees at the Abu Ghraib prison in Baghdad, Iraq, are offensive to the principles and values of the American people and the United States military, are incompatible with the professionalism, dedication, standards and training required of individuals who serve in the United States military, and contradict the policies, orders, and laws of the United States and the United States military and undermine the ability of the United States military to achieve its mission in Iraq.

(2) the vast majority of members of the Armed Forces have upheld the highest possible standards of professionalism and morality in the face of illegal tactics and terrorist attacks and attempts on their lives.

(3) the abuse of persons in United States custody in Iraq is appropriately condemned and deplored by the American people;

(4) the Armed Forces are moving swiftly and decisively to identify, try, and punish persons who were responsible or culpable for such abuse;

(5) the Secretary of the Army must continue to conduct a full and thorough investigation into any and all allegations of mistreatment or abuse of detainees in Iraq;

(6) the Secretary of the Army and appropriate military authorities must continue to undertake corrective action to address chain of command deficiencies and the systemic deficiencies identified in the incidents in question;

(7) the American principle and tradition of affording proper and humane treatment to persons under the custody of the United States Armed Forces must be reaffirmed;

(8) the alleged crimes of a handful of individuals should not detract from the commendable sacrifices of over 300,000 members of the United States Armed Forces who have served, or who are serving, in Operation Iraqi Freedom; and

(9) the United States expresses its continuing solidarity and support for its partnership with the Iraqi people in building a viable Iraqi government and a secure nation.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

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

Mr. Chairman, this is an attempt to once more state the strong position of this House against the abuses at Abu Ghraib. I have noticed that the first conviction under the court-martial system has taken place today.

This is also an attempt to say good things about the hundreds of thousands of men and women who are serving in uniform, the 141,000 or so in Iraq who are serving honorably, and to put us solidly on record in support of the prosecution of wrongdoers and the continuing strong support, Mr. Chairman, of our forces who are locked in combat in the Iraq theater, in the Afghanistan theater, and let them know we do not support them any less because of the publicity of the last several weeks.

I think it is pretty consistent with what my great friend and colleague, the gentleman from Missouri (Mr. SKELTON) and I have said over and over in the full committee hearings that we have had on this issue and the briefings that we had, and I would hope that all Members could support this amendment.

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

Mr. SKELTON. Mr. Chairman, I claim time.

The CHAIRMAN pro tempore. Is the gentleman in opposition to the amendment?

Mr. SKELTON. I will support the amendment, but I claim the time to speak.

The CHAIRMAN pro tempore. Without objection, the gentleman from Missouri (Mr. SKELTON) is recognized for 10 minutes.

There was no objection.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume, and I do support the amendment; however, if I may, I wish to point out a couple of things.

The Hunter-Meehan language that is in the base bill takes a major step towards this whole matter of the Abu Ghraib Prison situation, which of course is deplorable, and I think it is a good provision that is already in the bill.

I wish, however, that four Democratic amendments had been made in order on the prisoner abuse situation: one by the gentleman from Washington (Mr. DICKS) that specifically lists prohibited interrogation techniques, which makes them very clear; one by the gentleman from New York (Mr. ISRAEL) that requires very detailed reporting on the role of contractors as interrogators; one by the gentleman from North Carolina (Mr. PRICE) that would close loopholes in existing law on how contractors who commit crimes can be prosecuted; and one by the gentlewoman from California (Ms. LEE), which would make a database of detainee names available to families and create an international commission to monitor detainee treatment.

Each one of those, individually and collectively, I think, would have made this bill all the better.

But I must express my position in support of this amendment, because we do know that there are major steps to be taken, and we further know that there are so many young men and young women doing positive work in Iraq and Afghanistan; and we hope that the terrible and deplorable situation in that prison that has dominated the news now for a good number of days does not detract from their excellent work.

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

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume to thank the gentleman for his important work in this area, and also mention that the gentleman from Massachusetts (Mr. MEEHAN) and I worked up a provision that is in the base bill also, that I think, after reading the Taguba report, very much follows the Taguba report in terms of clarifying policy.

Let me go over a couple of things that we require to be done.

Ensuring that commanders of detention facilities and commanders of interrogation facilities provide all assigned personnel, including contractor

personnel, with training, and documented acknowledgment of receiving training, regarding the Geneva Convention relative to the treatment of prisoners; and establish SOPs, standard operating procedures, for the treatment of detainees.

We also provide that periodic unannounced and announced inspections be made by officers, something that was sadly lacking in the research and investigation that we have done and the review of the Taguba report. Also prohibiting contact between male guards and female detainees and between female guards and male detainees, except in exigent circumstances.

Clearly, there are many dimensions of a prison that are akin, in ways, to locker rooms, and it makes no sense to have substantial contact between male guards and female detainees or female guards and male detainees. So we have spelled that out.

So we have put in, working this in a bipartisan way, we have put in a number of new clarifications, which, while they are manifested into standard operating procedure, represent the emphasis that we would like to place on them in light of the Taguba report and the hearings and briefings that we have received in this matter.

Having said that, I want to thank the gentleman from Missouri and the gentleman from Massachusetts for working on this language also, and all the Members that worked on it.

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

Mr. SKELTON. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. WAXMAN), as the ranking member of the Committee on Government Reform.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I agree that the appalling abuse and torture of Iraqi detainees by U.S. military personnel at the Abu Ghraib Prison is completely unacceptable. Congress should condemn this illegal and inhumane misconduct in the strongest possible terms. But condemnation alone is not enough. Congress also has the responsibility to fully investigate this terrible episode.

Unfortunately, this amendment ignores the constitutional role of Congress to provide oversight over the activities of the administration and military. Without a thorough congressional investigation, the amendment simply assumes that only a handful of individuals were involved in the abuse. Despite General Taguba's conclusion that civilian contractors were either directly or indirectly responsible for the abuse, this amendment is silent on the role of private contractors in interrogating and abusing Iraqis at Abu Ghraib.

I do not understand how the House of Representatives can express its sense of the facts when it has made no meaningful effort to determine what the facts are. This amendment fails to acknowledge that Congress has a fundamental responsibility to investigate the allegations and to conduct oversight over the military campaign in Iraq. We cannot, as this amendment assumes, ignore our responsibility and rely on the administration to oversee itself. This amendment should call for House investigations into the abuse at Abu Ghraib.

The Committee on Government Reform, for example, should examine the role of private contractors in interrogations and prisoner abuse. Congress should be asking whether it is appropriate for the Defense Department to turn to private contractors to assist in the interrogation of prisoners. We should also determine what sanctions apply when private contractors operating in Iraq engage in outrageous abuse.

Time and time again the majority has demonstrated that it has no interest in performing any serious oversight of this administration. The majority has refused to investigate the alleged White House's outing of a CIA agent, Valerie Plame. The majority has declined to investigate allegations that administration officials threatened to fire the Health and Human Services chief actuary if he disclosed unfavorable cost projections for the Medicare prescription drug benefit in his presentation to Congress.

Now, the House majority wants to do as little oversight as possible when it comes to the abuse of detainees. One Republican leader objected to ''jerking these battlefield commanders'' out of Iraq for hearings. Another suggested that congressional investigations would inflame hatred of the U.S. ''by providing fodder and sound bites for our enemies.'' The majority seems to think it is unpatriotic to ask tough questions and demand answers.

Mr. Chairman, oversight is not unpatriotic. Oversight is our constitutional duty. Congress must not abdicate its responsibility for holding the administration accountable. We owe it to the Iraqi people, we owe it to the American people and especially to the U.S. troops that have served with honor to learn the whole story and to take steps to ensure that this kind of abuse never again occurs.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent that I be allowed to reclaim the balance of my time.

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

There was no objection.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume, and let me just say something briefly in response to my colleague who just spoke.

We are not abdicating any oversight on this issue. In fact, we have had as much congressional hearing time as we have had in the past going to war, sending the entire Nation to war. We have had massive hearings on this issue. We have had briefings.

In fact, we finished a briefing yesterday, with the majority of the House, with the Secretary of Defense and experts on this issue that carried well until after 6:30. The majority of the House Members, by my count, appeared. The Secretary did not leave until the last question was answered.

In my estimation, we have given as much publicity to this as we did to the invasion of Normandy, looking over the old stacks of publicity that attended that fairly important event.

Now, I would say this to my dear colleague, the gentleman from California (Mr. WAXMAN). We have 141,000 people whose lives are in danger. They need their leadership. Their battlefield leadership is now back here rehashing this issue. The first conviction was made today on this issue. Does the gentleman think we need to have congressional oversight overlooking the court-martial that just concluded in a conviction and a punishment being meted out?

And I would say to my friend that the punishments in the military system are meted out much swifter and much more surely than they are on the domestic side. We have already had a conviction. So your statement to the effect that there is no oversight, your implication there is no oversight is not true. It is false. There is massive oversight.

And in looking at the Taguba report and embedding many of those recommendations in this law, we have actually made changes that are a function or have arisen from that oversight. So the question is one of balance.

We have 141,000 people who need leadership in their operations. We need to make sure they have all the equipment that they need. We need to make sure they have their operational leadership.

So does the gentleman want another 15 hearings? Maybe we should cancel every piece of congressional business for the entire year so that the issue at Abu Ghraib can be milked until the election. I do not think that is good for either side of the aisle.

We have given an enormous amount of publicity to those seven people. I have a stack of Bronze Stars on my desk. Those people will never get any publicity. They certainly will not hear the gentleman from California talking about them, and probably not me, because we will not have a chance to get to them because we will be concentrating on those seven bad apples ad infinitum.

Judgment and balance are important in this business. And for that reason, I think after massive hearings on both sides of the Capitol, after enormous publicity, with six full investigations now attending these seven people, separate investigations, and prosecutions and court-martials going forward, I think we need to lead our troops and we need to provide them what they need; and that means we need to refocus on this war, and we need to win this war.

Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. SAXTON).

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Mr. SAXTON. Mr. Chairman, I take some exception to the polite assertion of the gentleman from California (Mr. WAXMAN) that the Congress of the United States perhaps in his view has not done enough or is not on a track to do enough; but at some point we have to decide to come to a conclusion that a few people committed some very horrendous, bad acts.

The events that have occurred since then, and I would remind Members this occurred in late December or January, or became evident in January, and immediate actions were taken by our trusted military leaders, and I am not talking about our civilian leaders necessarily, I am talking about our military leaders, people who swore to protect and defend the Constitution of the United States while carrying out their military duties. Since then, General Taguba and his staff have carried out a very extensive investigation.

I saw a copy of the report. It was that high with a 50-page executive summary. While it is classified, somehow or another it happened to appear on the Internet so anyone that wants to know what is in it can click on the Internet and look at it, and you will have to fairly conclude that there was nothing in that report that would suggest that we need a broader investigation.

But in spite of that, there are currently seven ongoing investigations being carried out by our military leadership, trying to find out if there is anything else that ought to be looked at, any other criminal investigations that ought to be entered into, any other processes to clean this mess up.

Now, we have 140,000 people doing good work, protecting the national security of our country while trying to put that country back together, positive work supporting the Provisional Coalition Authority, positive work working with Iraqi families, positive work monitoring caucuses where Iraqis are electing their own local leaders, controlling traffic, positive work securing ammo dumps that are sometimes miles square.

Our Special Forces are there operating, 140,000 people doing good works; and we are asked by the gentleman from California (Mr. WAXMAN) to concentrate on the bad acts, throw Congress into an oversight overdrive, concentrating on the bad acts of a handful of people.

I do not buy into the notion that we should do this, and I think the chairman's amendment is exactly what we need to do. I would hope the gentleman from California (Mr. WAXMAN) would rethink his position.

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

In line with my responsibility for oversight, I made a request a good number of days ago in a letter to the President asking when the White House, when the Defense Department, when the State Department received the International Red Cross report that was provided to me just recently, but dated back in February of this year.

In line with that, I am expecting to hear from the White House day by day, and I call them day by day. That is part of my oversight responsibility, to find out these matters as to when they received that International Red Cross document concerning the prison abuse.

Hopefully, they will get an answer to me to help me fulfill my oversight responsibility.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, we have had several gentlemen on the other side of the aisle take a great deal of time attacking the idea that they should hold public hearings. They act as if they held a public oversight hearing, we could not support our troops in the war.

Let me say, having private briefings and having classified meetings is not enough when our country's credibility and our reputation for human rights and democracy has been tarnished all around the world and our troops are in greater danger because of it. We need to know the facts.

We have heard people say a couple of times, seven bad apples. We do not know if it is only seven bad apples. I hope that is true. But we do not know how far up the chain of command some of these ideas were put forward in terms of how to treat the detainment of Iraqi prisoners.

The gentleman's Committee on Armed Services has had one public hearing with the Chairman of the Joint Chiefs of Staff and the Secretary of Defense. What about others to testify? I attended the classified briefing with Secretary Rumsfeld and other military people yesterday. I do not think I am violating any rules to tell Members that when the question of the Abu Ghraib prisoners came up, the Secretary said, We will find out the answers when we find out the answers. That is not a direct quote, but that is pretty much what I got out of that meeting.

I think we need to do more, and the best example of somebody doing more in a responsible way is Senator WARNER as the chairman of the committee on the other side of this building who has held hearings. Have we had any hearings for the public to hear on the House side? Have we heard from General Taguba in a public hearing?

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California for an answer to that one question.

Mr. HUNTER. No, the gentleman has not heard from every single officer in the U.S. Army on this subject.

Mr. WAXMAN. Have we heard from General Taguba who prepared the report?

Mr. HUNTER. We have heard from the Secretary of Defense, who is responsible for delivering the Taguba report to us.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, my point is that what we are hearing from the Republican leadership in this House over and over again is, We will trust the administration to investigate themselves.

We heard that when it came to the outing of the CIA agent, endangering our national security, from somebody at the White House who leaked the information.

We have heard it when it came from the Medicare estimates being withheld from the Congress.

And we are hearing it now on this issue of how Iraqi prisoners were treated.

I think we have more of a responsibility than just to say we trust this administration because, after all, we have a war going on. I would hope the House of Representatives could chew gum and walk at the same time, and that means support our troops, but also support America's standing in the world by doing our own investigation and hearing from other people than the Secretary of Defense in public meetings and in private meetings not tell us much of anything because they are still investigating it.

My argument to Members is, I will support anything that says we want to do something about the abuse, but we are not doing something about the abuse unless we exercise our oversight responsibilities and hold public hearings.

The CHAIRMAN pro tempore (Mr. SWEENEY). The Chair would advise Members that the gentleman from California (Mr. HUNTER) has the right to close, and has 1 minute remaining. The gentleman from Missouri (Mr. SKELTON) has 30 seconds remaining.

Mr. SKELTON. Mr. Chairman, I yield myself the balance of my time.

I have made my statement regarding my request to the White House for the information, and I hope I do not have to make another phone call tomorrow to receive the letter.

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

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time.

Apparently, the gentleman from California (Mr. WAXMAN) did not understand. Let me be clear: We had a major public hearing on this issue. It was a full-blown hearing, and the briefing that the gentleman from California (Mr. WAXMAN) attended is one that the gentleman attends perhaps on an infrequent basis, but one that we have on a regular basis, and have ever since the operation in Iraq started, to let Members of the House know what is happening. That is why the gentleman was invited.

And I am not going to yield to the gentleman because I have a point to make. I have listened to the gentleman's point, and I am going to close. I

am going to talk about some things that are important to the gentleman from California (Mr. WAXMAN).

Let me tell Members why it is important to have General Sanchez back leading his troops and not here when you have massive operations and you have conflict and you have people being taken, casualties being killed and wounded in that theater.

General Sanchez, who is in charge of that theater, who is a combat leader in that theater, has issues stacking up on his desk, and he has challenges; and a lot of those challenges affect our constituents.

I presume that the gentleman from California (Mr. WAXMAN) has young men and women in the Armed Forces in the gentleman's constituency, who are stationed in Iraq, whose very safety depends on General Sanchez making good decisions. He has to be there to make those decisions. He has to make convoy decisions, IED decisions, operational decisions, and that is why we need him back there leading his troops, not being pulled back here for political theater.

The CHAIRMAN pro tempore. All time has expired. The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

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

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. HUNTER) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 1 by the gentleman from Virginia (Mr. GOODE); and amendment No. 2 by the gentlewoman from California (Mrs. DAVIS).

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

AMENDMENT NO. 1 OFFERED BY MR. GOODE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 231, noes 191, not voting 11, as follows:

[Roll No. 196]

AYES—231

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Duncan
Dunn
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
LaHood
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Thomas
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (CO)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Blumenauer
Brady (PA)
Brown, Corrine
Burgess
Burr
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Chandler
Clay
Conyers
Cooper
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeGette
DeLauro
Deutsch
Dicks
Doggett
Dooley (CA)
Doyle
Dreier
Edwards
Ehlers
Emanuel
Engel
Eshoo
Evans
Farr
Filner
Flake
Frank (MA)
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Lofgren
Lucas (OK)
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Price (NC)
Putnam
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Souder
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Weller
Wexler
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—11

Delahunt
Fattah
Ford
Hayworth
Johnson, Sam
Jones (OH)
Kingston
Leach
Norwood
Portman
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). Members are advised that 2 minutes are remaining in this vote.

□ 1837

Messrs. TERRY, FARR, BISHOP of Georgia, Ms. CORRINE BROWN of Florida, and Ms. MAJETTE changed their vote from ''aye'' to ''no.''

Messrs. UDALL of Colorado, LIPINSKI, SMITH of Michigan, LATHAM, and Ms. HART changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MRS. DAVIS OF CALIFORNIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Mrs. DAVIS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 202, noes 221, not voting 10, as follows:

[Roll No. 197]

AYES—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Dunn
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Foley
Frank (MA)
Frelinghuysen
Frost
Gephardt
Gilchrest
Gonzalez
Gordon
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kilpatrick
Kind
Kirk
Kleczka
Kolbe
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—221

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole
Collins
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Forbes
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
John
Johnson (IL)
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kline
Knollenberg
LaHood
Langevin
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
McCotter
McCrery
McInnis
McIntyre
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Delahunt
Fattah
Ford
Hayworth
Johnson, Sam
Kingston
Leach
Norwood
Portman
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1853

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

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. HUNTER. Mr. Chairman, pursuant to section 4 of House Resolution 648, I hereby request that the following amendment be considered out of the order printed in House Report 108–499: amendment No. 14.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. SWEENEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. NUSSLE. Mr. Speaker, pursuant to House Resolution 649, I call up the conference report on the Senate concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 649, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, May 18, 2004.)

The SPEAKER pro tempore. The gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) each will control 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. NUSSLE).

GENERAL LEAVE

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. Con. Res. 95.

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

There was no objection.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to thank members of the Committee on the Budget on both sides of the aisle that have worked throughout the process this year. I wish to thank my ranking member and friend, the gentleman from South Carolina (Mr. SPRATT).

We will embark today on a vigorous debate. I have a feeling that we will differ quite a lot on the policy and the issues before us faced in the budget, but we do so in a cheerful manner, one that is with full respect; and I have enormous respect for my very able friend and colleague, the gentleman from South Carolina (Mr. SPRATT).

I also want to thank our staff. Rich Meade and the entire Committee on the Budget staff, they have worked very, very diligently on the majority side; and Tom Kahn and the minority staff have also done that. They prepare Members, not only on the committee but throughout our conferences and caucuses, so we are prepared for this debate today and throughout the year, and they deserve our support as we move forward and our appreciation.

As we started crafting the budget this year, there was certainly really no lack of naysayers who said that getting a budget passed this year would probably be next to impossible. There were way too many challenges, people said, facing our country, too many conflicting interests, too much pressure because of the upcoming elections.

All of those things are certainly true. It is true we are dealing with a number of other challenging issues, such as the ongoing conflicts in Afghanistan and Iraq, and the war against terrorism in general on a global basis.

But we will prevail as a Nation. Regardless of the debate that we have today on budgets and taxes and pay-as-you-go and the national debt, we will prevail as a Nation, because it is not about budgets in the end. It is not about taxes in the end. It is about an American spirit that will not die, because we believe in freedom, and that is freedom that is given to us as a little seed planted in our hearts when we are born and something that blossoms throughout our lives. We want to share that with the world, and we believe that by sharing it with the world, we will have a safer place in which to live.

I am also happy to report that we have prevailed, despite a myriad of critics who said it could not be done, that we would not even get a conference report agreement between the House and the Senate. We were able to do that. So today in the House we will complete the first step of what are some of our most fundamental duties.

I am extremely proud of this budget and what it stands for. I would like to particularly thank our leadership, our Speaker, the gentleman from Illinois (Mr. HASTERT); our majority leader, the gentleman from Texas (Mr. DELAY); our deputy whip, the gentleman from Virginia (Mr. CANTOR); and our whip, the gentleman from Missouri (Mr. BLUNT); as well as the gentlewoman from Ohio (Ms. PRYCE). All of the leadership team worked hard, standing our ground for the budget principles that we knew must be done.

And what was that must-do list for this year's budget? Clearly, this budget had to provide for the defense and homeland security of our Nation. That is job one. There is no excuse not to complete the most important job that this country requires of a Nation in order for it to be free, and that is the defense of our country.

Second, this budget had to continue to support a program of economic growth for our country, as well as continue our commitment to a host of critical domestic programs, such as veterans benefits, education, health care, and prescription drugs for seniors. And we had to do all of this while reining in our spending and working to reduce the deficits we incurred while responding to extraordinary circumstances over the past few years.

Getting a consensus on what was exactly right or correct was not easy. It has been very difficult. Every single person has their own idea of what a perfect budget would look like. This is not a perfect budget, and I dare say my friends on the other side will remind me of that time and time again today; but it is what is doable at a time of extreme circumstances in our Nation's history.

I have heard people say at time of war we ought to do this; at time of economic challenge we ought to do that; we ought to fund priorities. All of those are true. But we have never faced all of them at the exact same time: to have a downturn in the economy, be faced with two wars, a global response to terrorism, the most unbelievable tragic event of terrorism facing our Nation. All of this happening at the exact same time is something that has never happened to our Nation.

□ 1900

So these are extraordinary circumstances and we will respond. Let me tell you the guiding principles of this budget of how we are going to respond.

First is strength. We are free as a Nation as long as we are able to defend our freedom at home and abroad. And so the first principle is strength.

Second is growth. We must continue to grow. Our policies are helping to boost the economy. We do not want to grow government. We want to grow the earning capacity of people. We want to grow the ability to create jobs. We want to grow the entrepreneurial spirit in our country. That is what we want to grow. And we have already seen, the last 6 months have been the fastest growth in 20 years as a result of the policies put forward by our President and by this Congress. And we believe that must continue.

Business investment is up. Unemployment is falling, and it is lower now than it was on average for the 1970s, the 1980s or the 1990s. And most important, we are seeing jobs being created.

More Americans are working today than at any time in American history; 1.1 million jobs have been created over the last 8 months alone. So to remain the most prosperous superpower, our economy must be able to continue to grow.

Finally, opportunity. Strength, growth and, finally, opportunity. America's continued greatness comes from the unlimited opportunities that our American freedom provides. We are all for that. And we must continue to encourage those opportunities for a better life for every American citizen. Government certainly has a role in that.

Those were the guiding principles of our budget that we passed here in the House, and they remain the guiding principles as we work through this conference agreement.

I also want to talk to you about a few principles with regard to this budget that were included in the final conference agreement. First, there will be no tax increase. And let me be clear: If you vote ''yes'' on this budget, you are saying we do not need a tax increase. We do not want an automatic tax increase to happen, and we do not believe that this is a time for Americans to dig deeper in their pockets in order to deal with challenges we should be facing here in Washington.

Tax increases should not be the solution. And so if you vote ''no'' on this budget, be aware you are voting to automatically allow tax increases to occur this year.

That is what this budget will do. It will prevent an automatic tax increase. So by voting against it, an automatic tax increase will occur.

Second, on spending, our constituents have told us time and time again that we have got to rein in spending. We have got to control the waste, fraud and abuse in Washington. And certainly that is often in the eye of the beholder; but we believe that it is time to go through our departments, through our categories and look at ways to rein in spending. We cannot begin to address reducing the budget deficit without holding the current rate of spending growth.

This is what our spending growth has looked like in the past few years, a lot of growth. Most of that from necessary demands, but we cannot sustain that spending growth. So we have looked for ways to control spending throughout the budget. This budget calls for holding the line on nondefense, nonhomeland security discretionary spending. For the first time, this Congress, certainly in my tenure here and I daresay in the tenure of all Members of this body, this will be the first opportunity for you to vote to freeze or hold the line on nonsecurity spending in Congress.

Let us talk about the war. The President did not, when he submitted his budget back in February, contemplate the true cost of war because they were unknown at that time. Our budget has taken that into account.

We know, without question, that there will be costs for the ongoing war and that this budget will have an effect as a result. Do we know the exact amount? No. That is not known right now to the Congress, to the Defense Department, to the President.

We can speculate, and we have put into this budget a placeholder that says $50 billion, based on the estimate that we have for this year, is an appropriate figure to begin planning for the 2005 costs of the war.

And thank goodness we did that, because right after we passed our budget, we found out that at least $25 billion will be necessary to fund the ongoing conflict during 2005. So it is not with precision that we know this amount, but it is something we need to plan for in this, and this budget accomplishes that.

This budget does all of this, if we follow it, to get us back to balanced budgets and fiscal responsibility. We have to start somewhere.

There will be people who come to the floor today who say, you know, this is only a 1-year budget. Well, yeah, that is what we always pass. Last year we passed a budget; it had a lot of years on it, but we only followed it for a year. Then we renegotiated it this year. We will to the same next year and the year after. In fact, every year I have been here we have gone year to year to year with regard to taxes, spending, rules, appropriations, all of the different issues that face us today.

And so we are coming forward to present to you today a 1-year budget. It complies with the Budget Act. You will see 5 years' worth of projections for the amounts of money, but this is a 1-year budget. And we believe if we can get this right and if we can hold the House and the other body and the President to this plan, it puts us on a path to not only controlling the deficit, but getting us back to a balanced budget.

This budget is the first step in accomplishing that but it only works if we stick to it. This is our next major challenge, I daresay, to begin to get past all of the excuses of the last few years, although they are appropriate, certainly important rationale for how we have gotten here.

But we need to move forward. This allows us to do that today. So we need to vote ''yes'' in order to move this plan forward. But let me be clear: If you vote no, as I said before, you vote for an automatic tax increase, you vote to cut veterans' spending because we increased veterans' spending here over the President's amount by $1.2 billion; you are not supporting the troops to the tune of $50 billion contemplating the war costs.

Sure, you can say we will vote for the appropriations bill, but this plans for it in a budget. And I also suggest, you are not doing what you need to do to plan for defense and homeland security of our Nation.

This puts us on a track to fiscal responsibility. It meet our needs and the strengths of our country and growth for the economy and opportunity for the future. And I ask my colleagues to support the conference report.

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

Mr. SPRATT. Mr. Speaker I yield myself 4½ minutes.

Mr. Speaker, my good friend, the gentleman from Iowa (Mr. NUSSLE) and I work together well, and I have the greatest regard for him, but let me put it the way it is. He is trying to put the best face on a bad situation.

What we have got here is a new high for the budget deficit and a new low for the budget process. For the first time in 20 years, for the first time since the 1980s we have a budget that only goes out 1 year. Ever since the Budget Act was adopted, the principle has been that you will run out your numbers 5 years so that we can see the implications of tax cuts and tax increases, spending cuts and spending increases, spread over a reasonable period of time. Not in this budget: 1 year for the first time in 20 years.

Now, what does that allow you to do? It allows you to dodge the deficit. It keeps you from having to show on a multiyear basis how you will get from a $300–$400 billion deficit to something that is half that size to a respectable, sustainable number.

If you only take it out 1 year, there is no way in the world that we will ever get our arms around the deficit in that period of time. So it exonerates you from presenting any kind of process or plan to get where we all know where we have got to go, and that is to a much lower deficit.

Another thing: When you do not put real numbers in the outyears, in 2006, 2007, 2008, it allows you to reduce the President's request and not acknowledge what you are actually doing. By our calculations, when we look at the numbers that are on the chart contained in this budget resolution, this budget resolution provides $122 billion less for defense than the President requests or projects for himself over that same period of time.

This much is clear: Vote for this and you are voting for a huge deficit by the acknowledgment of the drastic $367 billion. And while they have included $50 billion for supplemental spending in Iraq and Afghanistan next year, I think that is at least $25 billion short of where we will really be. Add that 25 to the 367; you get to 392. Take out the Social Security surplus because it should not be included, and the deficit in the basic budget is $552 billion.

That is what you are voting for if you vote for this budget resolution, a deficit of $552 billion.

Now, when you run a deficit like that, you stack up debt, and once again we will have to raise the debt ceiling; and one of the key provisions of this bill buried beneath all of the line items is a provision which would automatically spin off an increase in the debt ceiling of $690 million—$690 billion. It will take the debt of the United States up to $8.1 trillion.

It is hard to get my tongue around those numbers.

When Mr. Bush came to office, the statutory debt ceiling of the United States was $5.9 trillion. Adopt this budget resolution and we will raise that ceiling by $2.2 trillion to $8.1 trillion. That is how much we have had to increase the debt ceiling, $2 trillion in order to accommodate the fiscal policies of the Bush administration.

Now, we have got record deficits. We have record debt. That is bad enough, but even worse, even worse in this budget resolution, there is no plan, no process and no prospect, not even a PAYGO rule for balancing the budget or anyone issuing the deficit over a period of time. All we have here, after a lot of huffing and puffing, is a puny version of the PAYGO rule that House Democrats and House Republican on two occasions in the 1990s adopted to apply to both tax cuts and spending increases on the entitlement side. All we have got here is a 1-year extension that applies only in the Senate, no application whatsoever in the House. That is all we have got.

The gentleman says if you do not vote for this, it could impair the recovery. Well, let me say, Mr. Greenspan warned us only a week or two ago that this recovery we are beginning to enjoy may be short lived unless we come to grips with this critical problem, and that is mounting, never-ending deficits that these budgets are producing.

So the thing that is incumbent upon us now is not to kick the can down the road, is not just to pass something for the sake of saying we passed the budget resolution, we fixed the 302(a) number. We can go ahead with our appropriation bills. We need a plan; we need a process. We need to deal with this deficit now, and this budget resolution does not do it. That is why we should defeat it, send it back to conference and do it right.

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

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Let me just respond quickly and say, and I forgot this part, we are reducing the budget deficit by $100 billion. So I understand there is concern out there. We are taking $100 billion off the top as a result of this budget because we are planning our work and we are sticking to our plan, and it is a good plan.

Mr. TOM DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

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

Mr. TOM DAVIS of Virginia. Mr. Speaker, I thank the gentleman.

I ask this question for myself and my colleagues, the gentleman from Virginia (Mr. WOLF), the gentleman from Virginia (Mr. MORAN) and the gentleman from Maryland (Mr. HOYER).

I note on Wednesday, March 31, with 299 votes, the House passed House Resolution 581 regarding pay comparability for Federal employees. That language is not included in the resolution.

Is it the gentleman's understanding that the language of that resolution is the position of the House?

Mr. NUSSLE. It is my understanding. The gentleman is correct.

Mr. TOM DAVIS of Virginia. I thank the gentleman.

Mr. NUSSLE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. THORNBERRY), a very valued member of the committees.

Mr. THORNBERRY. Mr. Speaker, I thank the gentleman for yielding me time and commend him on his patience and persistence that was required to have this conference report.

Mr. Speaker, I rise in support of this conference report. In my view, the first job of the Federal government is to defend the country, and there is certainly no greater priority in this budget than protecting America.

When it comes to helping make the country strong, we in Congress have an

important role to play. Part of our role involves the other major bill we are working on this week, the defense authorization bill. But I believe that passing this budget today also puts in place an essential building block that helps make sure we do our job in keeping and improving on a strong America.

This budget fully funds the President's request for military and homeland security. It allocates $420 billion for the national security function. Included in that is $402 billion for the military, and on top of that is $50 billion that the chairman just talked about for the ongoing operations in Iraq and Afghanistan.

Once that allocation is translated into the various programs, we will have increased basic pay for soldiers in the military, 21 percent over the past 3 years.

□ 1915

We will have increased personnel funding 59 percent since 2001. Operation and maintenance will have increased 55 percent; procurement up 43 percent; R&D funding up 76 percent over the past 3 years.

In short, Mr. Speaker, we will have provided everything the Pentagon has asked for the troops in Iraq and Afghanistan and then some.

On homeland security, this budget allocates $33.4 billion, including $31 billion for the Department of Homeland Security. This is nearly double what those agencies were receiving in 2001, nearly double. The budget carves out $2.5 billion in advance funding for Bioshield, the effort to deal with that threat which many people view as the most dangerous to us, biological warfare.

But as I said when the House first considered this budget, we could slap a homeland security label on the whole Federal budget and still not be perfectly safe; but passing this budget today allows the other committees to do their work on the detailed programs and make sure that in Congress we stand up and do our job on homeland security and defense, supporting the men and women who are on the front lines every day protecting our lives and our freedom. It deserves our support.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding me time.

This is not a serious attempt to deal with a serious problem. This is a chart that shows the mess we have gotten ourselves into. It is the deficit since the Vietnam War, Reagan, and Bush. The Clinton administration cleaned up the mess, and here we are now with a huge deficit.

If you run up deficits, you have got to pay out interest on the national debt. This is the interest on the national debt we were projected to pay when this administration came in. This is the interest on the national debt we are going to have to pay for messing up the deficit, $300 billion additional interest on the national debt. $300 billion at $30,000 each, that is enough to hire every unemployed person in the country, over 10 million people.

The bill presented today is $367 billion more in debt. The chairman is right, we are not digging into our pockets. We are digging into our grandchildren's pockets.

This bill ignores the PAYGO rules of fiscal responsibility. It is a 1-year budget rather than the traditional 5- or 10-year budget. So a lot of the problems are hidden. It is not a serious attempt to deal with a serious problem.

We should reject the conference report.

Mr. NUSSLE. Mr. Speaker, could I inquire how much time is remaining on both sides.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Iowa (Mr. NUSSLE) has 13½ minutes remaining, and the gentleman from South Carolina (Mr. SPRATT) has 24 minutes remaining.

Mr. NUSSLE. Mr. Speaker, we will reserve our time and let the other side catch up a little bit.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise in opposition to this conference report.

In the 2000 campaign, President Bush declared that he was opposed to nation-building. Well, he has succeeded in keeping his commitment. When you leave $3 trillion of debt, a budget with $500 billion in deficit, 3 million Americans who have lost their jobs, 44 million Americans without health care, two more million Americans in poverty, George Bush can say he has kept his commitment against nation-building. Who knew it was America he was talking about.

This budget shows that you cannot finance three wars with three tax cuts and get a different result and continue the same policies by putting your foot on the accelerator on the same policy. You will get the same result: 3 million Americans without jobs, $3 trillion added to the Nation's debt, $500 billion in additional debt on top of that, and no ability to deal with the health care crisis and the college tuition crisis that middle-class families are facing.

We need new direction, a new set of policies to put middle-class families and their economic interests and the interests of their families at the heart of our economic policy. We need to break with the policies that continue to literally reward wealth at the expense of work.

Mr. SPRATT. Mr. Speaker, I yield to the gentlewoman from New York (Mrs. MALONEY) for the purposes of a unanimous consent request.

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

Mrs. MALONEY. Mr. Speaker, I rise in opposition to the budget.

Mr. Speaker, over the past three years, fiscal recklessness has reigned over this House. Record surpluses have been molded into record deficits. Sensible spending has been overtaken by a bloated budget. Discipline and prosperity have been shoved aside for irresponsibility and mismanagement. Now comes today's budget conference report—an opportunity to acknowledge Federal misspending by establishing budget enforcement rules for, at the very least, the next 5 years. Instead, "pay-as-you-go" has been adopted for 1 year only, but there is no way to untangle this fiscal mess in 1 year. Perhaps our friends on the other side of the aisle realized that the voting public, in fact, embraces fiscal discipline. Perhaps they want to give the appearance of a balanced budget to score points in November. Unfortunately for our country, mere appearances won't fix this mess, and they won't create jobs. This thinly-veiled attempt at election-year discipline is far too little and far too late. Is our government's budget better off today than it was 4 years ago? Not by a long shot, and this conference reports is not going to do anything to change that any time soon. And that's why I am voting "no."

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure.

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding time.

Mr. Speaker, this budget conference report is another step backward in the action in reverse the Republican leadership and the White House have been conducting on transportation funding over the last 6 months.

Last fall, the Committee on Transportation and Infrastructure introduced a bipartisan bill at $375 billion over 6 years, but to appease the Bush administration, the House leadership jawboned that number down to $350 billion, then 325, then 300, finally $284 billion, the number which the House passed by an overwhelming vote; but that was not low enough for the White House.

Now the conference report cuts $11 billion from the will of the House to $273 billion. The White House still insists on its $256 billion figure. That means not one dollar more for highway and transit, not one new job compared to the current TEA–21 law. That is a formula for gridlock, congestion, and economic stagnation. We should reject this conference report.

Mr. Speaker, I rise in strong opposition to S. Con. Res. 95, the Budget Resolution Conference Report for FY2005. Mr. Speaker, let me briefly focus on the highway and transit funding assumed in the Republican Budget.

Last November, 73 Members of the Committee on Transportation and Infrastructure introduced a bipartisan bill to authorize $375 billion for the highway, transit, and transportation safety programs for the next 6 years. We developed these program funding levels based upon the Department of Transportation's report assessing the highway and transit needs of our Nation. In March, the Committee unanimously approved that bill. That bill would have

stemmed the tide of crippling congestion that is overcoming our metropolitan areas.

However, the Bush Administration adamantly opposes additional infrastructure investment, and the House Republican Leadership made clear that the bill would never see the light of day. We have seen a Republican "auction in reverse" ever since.

In February, the Senate, by a vote of 76–21, passed its bill authorizing $318 billion for surface transportation infrastructure. The White House threatened a veto.

To further appease the Bush Administration, the House Republican Leadership forced the Transportation Committee to cut this infrastructure investment even more—to $284 billion. In April, the House considered that downsized bill and it passed overwhelmingly, by a vote of 357–65. It still wasn't good enough for the White House and it again threatened a veto.

Now, the Republican Leadership, pursuant to the Budget Resolution Conference Report, cuts this critical infrastructure investment even further—to $273 billion. The Republican Budget assumes $273 billion for TEA-21 reauthorization, which is $11 billion less than the $284 billion provided by H.R. 3550 (TEA LU) as passed by the House just last month. The Republican Budget is $45 billion less than the Senate-passed funding level.

The reverse auction continues and I fear it will not end until infrastructure investment is cut to President Bush's proposal. The Administration is adamantly insisting that total investment be no more than $256 billion over 6 years. And let me be clear on what the Bush Administration bill provides: not one more dollar for highway and transit infrastructure, not one new job. Compared to where we are today, the Administration's bill provides no increase for highway funding and no increase for transit funding for the next five years—not a single additional dollar. As a result, not one additional job will be created by this zero-growth investment.

The result of the White House's absolute intransigence on its entirely unacceptable proposal is traffic gridlock in our communities and legislative deadlock in Congress.

Mr. Speaker, our country has worked too hard to put the current transportation system in place to allow this administration to squander previous investments made over generations and allow that system to deteriorate.

I urge my colleagues to vote "no" on S. Con. Res. 95.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank my friend and ranking member of the Committee on the Budget from South Carolina for the time.

Mr. Chairman, every minute, the Bush administration spends $991,000 more than it takes in, basically $1 million in deficit every single minute. We have lost control of the budget; and this is not going to give us control, even though this purportedly is what it is supposed to do.

One of the things that it does, and the American people need to know this, is that it increases the debt limit by $690 billion to over $8 trillion. We were told that the last time we increased the debt limit to $6.9 trillion that we would not have to do it again until 2008 because of the President's tax cuts, and here we are right back again increasing the debt limit to the $8.1 trillion. This is a bad budget resolution.

It used to be that we had a 10-year window. We could look out to see what this budget was going to do over 10 years; and then to hide the real deficit creative aspect of this budget, we reduced that to 5 years. Now none of us could have imagined that we would actually bring a budget resolution to the floor limited to one single year.

This is a bad budget resolution. There is no provision for the future. It digs the deficit even deeper, and then we do not even have PAYGO rules that apply. This budget is out of control and deserves to be defeated, Mr. Speaker.

Mr. NUSSLE. Mr. Speaker, I yield myself 15 seconds, and then I will let them continue.

But I want people to listen. Listen. We have got half the speakers on that side saying, worry about the deficit and debt, and the other half coming like the gentleman from Minnesota saying we are not spending enough, we are not spending enough, we are not spending enough. So is it the deficit or is it spending? My goodness, my colleagues need to get their message straight.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, what we have before us today is not a serious document. Putting together a budget should be a reflection of the Nation's priorities. It should be a long-term road map for where we want this country to go and how we expect to get there.

This budget shows that we are not taking this process seriously. This is a 1-year budget providing no commitments or details after the first year. A failure to detail future plans masks the consequences of these policy decisions in future years.

This budget shows that the majority is not taking the deficit seriously, and the results of this budget will seriously tax our children and grandchildren.

Deficits do matter. We cannot just continue to run up massive deficits and add billions to the national debt.

This budget shows that we have no commitment to our future generations. In addition to passing on massive deficits, this budget underfunds education programs and cuts investments in our future, like scientific and medical research.

I urge my colleagues to take their jobs seriously. We have to have a road map for the future. Please vote "no" on this budget resolution.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. KIND).

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, these are budgets with pay-as-you-go rules. These are budgets that do not have pay-as-you-go rules, from 4 years of budget surpluses to record setting budget deficit. What is hard to understand here?

Mr. Speaker, this Congress and the legacy of this administration cannot be historically large budget deficits and rising anti-Americanism throughout the globe. Yet that is exactly what is taking place here this evening.

We have an obligation to do better. As the father of two little boys, I did not come to this Congress to leave a legacy of debt for our children and grandchildren to inherit. This will not make us more prosperous, nor will it make us more secure at the end of the day.

We can do better, and by applying pay-as-you-go rules just to the United States Senate and not to the House of Representatives is the height of deceit and double-speak that we have before us this evening.

I encourage my colleagues to reject this budget resolution. We can and must do better.

Mr. SPRATT. Mr. Speaker, could I inquire of the Chair how much time is left on this side.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. SPRATT) has 17 minutes remaining. The gentleman from Iowa (Mr. NUSSLE) has 13¼ minutes remaining.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

(Mr. MARKEY asked and was given permission to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, this Republican budget reminds me of Saint Augustine's famous prayer, "Lord, make me chaste but not just yet."

The budget resolution covers only 1 year, not the 5 years normally covered, in order to hide the true scope of the deficits their tax cuts have created.

Its pay-as-you-go provisions do not apply to all of the Republican tax cuts.

Oh, Lord, our Republican friends pray, make us fiscally chaste, but not just yet, and only for a year when it comes to the tax cuts we have given to our wealthy friends.

Since taking office, President Bush's reckless tax cutting policy has drilled a massive fiscal hole in our economy. Today, the Republican budget resolution drills even deeper.

Republicans are giving us Energizer Bunny deficits. They keep growing and growing and growing.

But the Republican paradox is that they hate the government, but they have to run for office in order to make sure that the government does not work, and the perfect form of that is when they control the House, the Senate, the White House, the Supreme Court because then they can take the notion of benign neglect which does not harm, it does not hurt, and turn it

into designed neglect where the tax cuts are so massive that cuts in Medicare and Social Security and Medicaid and education and the environment and every other program that has been put on the books over the last 60 years, as each year goes by, has a meat cleaver that has to be applied to it in order to make sure that tax cuts for the wealthiest 2 percentile is preserved.

Mr. Speaker, this Republican budget reminds me of Saint Augustine's famous prayer, "Lord make me chaste, but not just yet."

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Since taking office, President Bush's reckless tax cutting policy has drilled a massive fiscal hole in our economy. Today, the Republican budget resolution drills even deeper.

Republicans are giving us Energizer Bunny deficits—they keep growing, and growing, and growing . . .

Just 3½ years ago, CBO projected a $5.6 billion surplus over the next 10 years. Today, we're looking at a whopping $4.4 trillion deficit through 2014.

The Republican budget on the Floor today reinforces this astonishing reversal of fortune. It is a stunning, self-inflicted fiscal wound that will fester for generations yet to come. The Congressional Budget Office estimates that the budget deficit in 2004 will top last year's all-time high deficit and reach $600 billion when current borrowing from the Medicare and Social Security Trust Funds are included.

This resolution before us today will essentially freeze non-defense, non-homeland discretionary programs. Its budget proposes $13 billion in mandatory cuts over 5 years under the guise of reducing waste, fraud and abuse. But in reality these cuts could slash veterans' health care, Medicaid, unemployment assistance and other domestic programs that Americans depend on.

The Republican budget scheme calls not for benign neglect of Social Security, Medicare, health care, education and other domestic programs, but designed neglect, in order to siphon away the money the federal government needs to meet its obligations under critical programs that benefit seniors, veterans, the environment and our children.

Former Treasury Secretary Paul O'Neill reported that during cabinet meetings early in the Bush Administration, Vice President CHENEY brushed off concerns about tax cuts causing huge deficits by saying "Reagan proved that deficits don't matter."

The Republican paradox is that Conservatives hate government, but they have to run for office to make sure it doesn't work.

With this budget resolution, they will have succeeded—but their success spells disaster for all of those Americans who depend on the Federal government to help them, and for the future generations who will be stuck with the tab for the tax cuts the Republicans have given to the wealthy.

Mr. Speaker, Vice President CHENEY is wrong. Deficits do matter. Defeat this wrong-headed budget resolution, so that we can stop digging the deficit hole deeper.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, what has happened to the heart and soul of the Republican Party? I used to have a lot of respect for my friends on the other side of the aisle when they called themselves fiscal conservatives. The Republicans can never again call themselves fiscal conservatives.

The American people are not foolish. Each person, each household in America understands that in a budget you only spend as much as you have. If you keep overspending year after year, if you spend more money than you take in time and time again, bad things happen; and that is what is happening here.

We are having an orgy of tax cuts, and we have an unbalanced budget, and we are passing on a legacy of debt to our children and our grandchildren.

□ 1930

Shame on us.

We fought long and hard in this Chamber to balance the budget during the Clinton Presidency. We succeeded by making hard choices. Yet today we are presented with an easy choice, borrow and spend. The borrow-and-spend Republicans have hit once again. Shame on the majority for this sham budget.

When the House debated the budget resolution earlier this year, I rose in opposition to it because it is a big fat IOU to our children and grandchildren. It is unfair. Shame on the majority for abandoning PAYGO for spending and tax cuts.

We should vote down this quick and easy fix. Let us make the hard choices that we were elected to make. Let us pass a budget that balances soon, not one that never balances, and not a phony one that is only 1 year because we want to masquerade the sham that we are causing.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentleman from South Carolina (Mr. SPRATT) for yielding me this time.

One of the statistics that I think is beyond dispute here is the Federal debt now totals $7 trillion. And if you break that down by every person living in the United States, it is $24,000 a person.

A few brave, moderate Republicans in the House stood for a central proposition that the American people expect us to live by, that is, Democrats, Republicans and Independents, and it is pay as you go. Do not cut taxes, do not spend, do not drive this massive Federal debt up further unless you can find a way to offset the tax cut or spending.

Tonight, the Republican majority in this House entirely repudiates that proposition over the objections of independent-minded Republicans in the House and Senate. There will be no pay-as-you-go. Instead, we will be adopting an historic debt ceiling in excess of $7 trillion. How abysmal. What reckless fiscal responsibility.

It is the Democrats standing on the floor of the House tonight fighting for fiscal responsibility. This is what taxpayers and citizens throughout the country expect. And I would urge the moderate Republicans in the U.S. House to reject this budget resolution. Join your comrades in the Senate and let us restore fiscal responsibility.

Mr. NUSSLE. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, could the Chair tell me how much time is left?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from South Carolina (Mr. SPRATT) has 12½ minutes remaining, and the gentleman from Iowa (Mr. NUSSLE) has 13¼ minutes remaining.

Mr. SPRATT. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I thank the gentleman from South Carolina for yielding me this time.

Mr. Speaker, this is a sad night for this House. The budget of the United States of America should be a blueprint for our Nation, but this budget only extends 1 year. We used to make 10-year budgets, and then our friends on the other side of the aisle got more modest in their expectations. It was reduced to 5 years because they were afraid for the American people to see what lay in the 5 years beyond. Now, they are apparently afraid for the American people to see what lies beyond 1 year.

We should be preparing for the future. We should be living within our means. And for all the good things that have been said about this budget, it hides the largest budget deficit in American history.

Now, if that were temporary, that would be one thing. But what we are looking at are permanent structural deficits that will burden this economy and burden our children and grandchildren for generations. They are doing irreparable harm to our Nation.

There were some good reasons for a temporary deficit, but not for a permanent structural deficit. My Republican colleagues on the other side of the aisle are good people, but they have been misled by ideology into abandoning principles like pay-as-you-go, which helped rescue our Nation before from a sea of debt. They have abandoned the principle of fiscal responsibility that used to be the lodestar for the Republican Party.

It is so important that we pull together and live within our means, spend responsibly, and tax responsibly so that we can have a stronger Nation.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume to

respond to the gentleman that that is why our budget reduces the deficit next year, $100 billion alone, and that is without raising taxes.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. PORTMAN), a very valued member of the committee.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me this time, and I find it interesting to come to the floor tonight and hear from my friends on the other side of the aisle that we need to have less spending and more fiscal discipline.

Having been on the Committee on the Budget and gone through the process of a markup where we heard again and again how we were not spending enough on education, we were not spending enough on the environment, we were not spending enough on health care, we were not spending enough on labor issues, we were not spending enough. And amendments were offered and amendments were voted down that would spend more and more and more.

And, yes, the Democrats offered an alternative, and I applaud them for that, on the floor of the House, although we did not have one in committee. And it offered more spending, and that is fine, that is fine. But then to come to the floor and say somehow this budget has too much spending in it just does not make too much sense.

The Democrat alternative also offered higher taxes and increasing taxes, and we disagree with that. We think this economy has finally turned. We now see not only the best growth we have had in 20 years, but jobs coming back. We think it is the wrong time to raise taxes.

So I just hope for those listening, my colleagues and others out there, that they realize the budget that is before us, that the chairman of the Committee on the Budget has put together, is a fair budget that provides for spending restraint. It does provide for increases in spending on homeland security and on defense, which are necessary right now, but for the rest of the budget it is pretty much flat.

And, unfortunately, given our budget deficit situation, we cannot make additional investments right now in some high-priority areas and other areas. We have to make, as someone said earlier, some tough choices, and we are making them in this budget.

I want to be clear why we believe that it is important to continue to allow the tax relief to work and not to increase taxes. We believe that because we have seen the impact of tax relief. We did not do it because we just like tax relief for tax relief itself. We did it because we thought it would grow the economy. And it has worked.

This chart shows that the growth of our economy is the greatest growth we have had in 20 years in this country. In the third quarter of last year, we actually had 8.2 percent growth. We had 4.2 percent growth in the last quarter. When you combine the last three quarters together, it is the best growth we have had since the 1980s, and we want to continue that.

The forecast for the future, in fact, is for much higher growth than we even thought was possible only a year ago. Why? Because the economy is really turning.

Along with that growing economy, we are seeing housing starts and permits at record highs. Home ownership in the country is at record highs right now. Minority home ownership is at record highs. This is what is happening out there in the real world, but it is good news about our economy that we want to continue.

We are also seeing here again that it is not just a growing economy and the fastest growth in 20 years, but the jobs are coming back. Unemployment in this country right now is 5.6 percent. That is lower unemployment, my colleagues, than we had in the 1970s, in the 1980s, or in the 1990s. The average unemployment in those three decades was higher than 5.6 percent. We are seeing unemployment at low levels, and we are seeing jobs coming back. There were 1.1 million jobs created in this country in the last 8 months. That is a million, 1.1 million, jobs in the last 8 months.

But let us talk about those jobs. Perhaps the gentleman would like to tell me what is wrong with 288,000 new jobs being added last month, 300,000 jobs in the month of March. We are seeing the jobs coming back big time, and this is not the time to change our direction and raise taxes on the American people and on small businesses and on our families. It is a time to continue to see this economy grow and prosper. That is what this budget provides.

It is a fair budget. It makes tough choices, but it also ensures that we continue to have the kind of economic growth that all of us hope to see.

Mr. SPRATT. Mr. Speaker, I yield myself 15 seconds to respond to the gentleman.

The gentleman said jobs are coming back, and the recent job growth is a welcome development, but, Mr. Speaker, we are still 2.2 million jobs below the level of jobs existing in the economy in March of 2001 when the last recession began. We have never seen such a jobless recovery as we have seen now.

Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this budget does not just deepen the fiscal deficit, it deepens the moral deficit of cynicism that Americans feel increasingly towards this government, because this budget is built upon a misrepresentation. It is built upon the misrepresentation that we can have it all and never make a tough choice. It says you can keep raising what you spend, you can continue to reduce taxes, you can continue to borrow massive sums of money, and nothing bad will ever happen.

Something very bad is going to happen if this budget should become law. We are going to borrow more money, drive up interest rates, dry up capital for the private sector, and kill jobs in this country for many, many years to come.

Mr. Speaker, I think the majority has a point when they put forward a 1-year budget resolution. Maybe there is intuitive wisdom in that, because if they follow this policy next year, they will not be writing the budget resolution, a new President and a new majority will.

We welcome and look forward to that day.

Mr. SPRATT. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Speaker, there has been a lot of talk about the economy on that side of the aisle. I do not blame them. I would not talk about this budget either. I, frankly, would not talk much about the economy either. A net loss of jobs to this date. Does anybody want to dispute that? Apparently not.

Let none of us be mistaken about what we are witnessing here on the floor today. Mr. Speaker, as important as the budget debate is at a time of record deficits, at a time of exploding debt, at a time of war, this debate is about far more than the budget. This debate marks the death, in time and place, of the so-called Republican revolution.

Ten years ago, the Republican Party recaptured the majority on a pledge of reform and a wave of hot rhetoric. Today, with this, and I use this word advisedly, dishonest, phony, political Band-Aid that the majority wants to call a budget, they, for all intents and purposes, are raising the white flag of surrender and announcing to all of America: We Republicans simply cannot govern. We Republicans simply cannot fulfill one of our most basic responsibilities, to pass a real, honest budget. We Republicans have been so blinded by our tax cut ideology, that we do not recognize the irresponsibility and, yes, the immorality of policies that force our children and grandchildren to pay our bills.

Mr. Speaker, this 1-year Republican budget is simply not credible. It brazenly attempts to conceal the record deficits that Republican policies have created and the fact that they have no plan to rein in those deficits. In fact, for the 1 year it does cover, it projects a deficit of $367 billion.

It conceals the fact that Republicans are robbing the Social Security trust fund to pay for Republican tax cuts skewed toward the highest-income taxpayers.

It conceals the fact they would freeze domestic priorities, such as health care and the environment, and cut them drastically in the future.

And it conceals the fact that this conference report would increase the statutory debt limit by $690 billion.

And not one of my colleagues on that side of the aisle has the courage to stand up and vote for that increase. Not one.

I have been here long enough to hear my colleagues railing about increasing the debt. Last year, my colleagues increased it even more, without a vote. It was increased to almost as much as the entire debt from 1789 to 1981 at the time I came to Congress. It was $981 billion then, and my Republican colleagues increased it $940-plus billion last year and another $670 in this budget.

So, Republicans, my friends, when you vote on this budget, know that you are voting to increase the debt by $670 billion.

This budget also conceals the fact that this conference report would lead us into further debt of $8 trillion.

□ 1945

Yet under the Hastert rule, there will be no debate and no vote on that action.

Mr. Speaker, with this conference report, the majority demonstrates its inability to govern and refuses to address the problems that its own policies have created. This is the last gasp of the revolution. I do not think that they will accept it on the other side, certainly they should not; and I do not think they will. I urge my colleagues to vote against this conference report.

Mr. NUSSLE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I am pleased to be here this evening to discuss how well we treated the veterans in this budget.

Since Republicans took control of Congress in 1995, we have made great strides in improving the benefits for our Nation's veterans. During that period, total spending on veterans has increased from $38 billion to $60 billion. That is a 58 percent increase compared with only a 36 percent increase during the previous 10 years when the Democrats were in control.

And since 1995, payments per veteran have actually risen by 79 percent. Let us take a moment to review some of the most important improvements. For example, in veterans medical care, the Republican Congress has expanded eligibility for medical care in 1996 and 1999. As a result, the number of veterans using the VA medical care has increased from 2.5 million in 1995 to almost 4.7 million today.

Since 1995, the total spending on veterans medical care has increased from $16.2 billion to $28.3 billion this year alone. That is a 75 percent increase. In veterans educational benefits, since 1995 monthly education benefit levels under the Montgomery-GI bill increased from $405 to $985, a 143 percent increase. This compares with only a 35 percent increase during the time that the Democrats had control.

And under the 40 years of Democrat control prior to us taking control, there was no progress made whatsoever on concurrent receipt. We are very fortunate now that military retirees who are injured in combat or while training for combat or who are 50 percent or greater service disabled are eligible for the first time to receive retirement benefits concurrent with their veterans disability compensation. There is no doubt that the Republicans have helped the veterans in this budget.

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

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Speaker, let me make a couple of points clear because they have been brought up repeatedly throughout this debate.

First of all, how much have we reaped in the way of jobs as a result of these enormous tax cuts mainly benefiting wealthy Americans? What has been the pay-off in jobs?

This economy went into a recession in March 2001. If we take the level of jobs in the private sector at that point in time and compare it to today, we are short. There are 2.2 million fewer jobs today, notwithstanding the enormous stimulus of all these tax cuts, 2.2 million fewer jobs. For the first time since President Hoover, we have a recovery where we have not recovered the jobs even though we are 15 months, 18 months out from the trough of the recession. Actually, it is longer than that.

It has also been said that revenues have been rising, and they have taken an up-tick recently; but this chart shows when President Bush proposed his tax cuts, and we said, Mr. Bush, you are betting the budget on a blue-sky forecast; you are betting it for everything it may be able to sustain, this was the course of revenues that he projected, OMB projected with the tax cuts. With the $3.5 trillion worth of tax cuts that was enacted in 2001, the Bush administration nevertheless projected that revenues would rise and stabilize at that level.

Here is the actual level. The broken blue line is the projected level, the red line which descends precipitously is the actual level of revenues, and the difference between these revenues here, which is about $1.1 trillion and this level here, which is below $750 billion, is at least $250 billion. Revenues have not risen; taxes have not rebounded. We have not had the supply-side phenomenon now, as we did not have in 1981. This is the actual record.

Let me show Members the situation we find ourselves in which makes it absolutely essential for us to use the budget resolution, the one tool that we have which deals in the aggregate with everything we have spent and everything we take in by way of taxes.

This is the curve on which we were proceeding in 2001 when Mr. Bush came to office. He inherited an advantage that no President in modern times has had, a budget in surplus. He was in surplus by $236 billion in fiscal year 2000, and this was the course that was projected by his economists at the Office of Management and Budget. This is the course that we have determined we are on today. If you are just for what Iraq is likely to cost and what Afghanistan is likely to cost, if you assume that all of the tax cuts are going to be renewed, which is a politically likely assumption, this is where we are. We get a little up-tick from the economy, but the bottom line shows that having risen a bit from a projected deficit of $521 billion this year, we go up a little bit over $324 billion, but 10 years from now we are right where we started: $502 billion. We tread water. We do nothing. We accumulate debt, and that is why we are having in this resolution to raise the debt ceiling by $690 billion, because year after year we are stacking debt on top of debt. That is the result of this budget, and this resolution does nothing on the revenue side or the spending side.

We have heard a lot of talk about how we have this runaway spending, but let me show where the spending is occurring. If we look at all of the spending in the Federal budget and you take these spikes in the budget where spending in certain accounts is faster than current services, guess what those accounts are: defense, homeland security, the response to 9/11, accounts for 4 fiscal years accounts for 90 to 95 percent of all of the increase in spending over and above current services.

There are two points Members can draw from this. First of all, the President has requested this. We provided it. We had to spend it.

Secondly, the likelihood this is going to be reined in significantly, defense, it goes up to $422 billion. That is without including the supplementals. This is not going to be reined in significantly. So to talk about accounts where spending is growing, we cannot expect in the near term any significant cuts in that area.

What we continually hear talk about is the sector of the budget called domestic nonhomeland security, domestic discretionary spending. That is it right there. That is one-sixth of the budget. It is about $384 billion. The budget deficit is bigger than that. Clearly, this has the FBI, the National Park Service, the court service, the whole operation of the government in it. Clearly, we cannot squeeze enough blood out of that turnip to begin to get rid of this enormous deficit.

Let me show Members one final chart just to show it can be done. This budget resolution does not do it, but it can be done. When President Clinton came to office in January 1992, we had just recorded our biggest deficit in history, $290 billion at the end of fiscal year 1992. He came into office in 1993. Spending was at 22.5 percent of GDP. We did it by lowering spending and raising revenues. It can be done again, but this budget resolution does not do it. Let us vote it down and send them back to conference and start over again.

Mr. NUSSLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. NEUGEBAUER) for the purpose of a colloquy between myself and the gentleman from Texas, and ask the gentleman to summarize.

Mr. NEUGEBAUER. Mr. Speaker, in the Senate Budget Committee, they adopted a provision which would have reduced the maximum payments farmers can receive under the 2002 farm bill, and I asked the gentleman to address that during the conference. Is that provision still in the budget?

Earlier this year, the Senate Budget Committee adopted a provision in its budget resolution which assumes enactment of legislation reducing the maximum payments farmers can receive from commodity support programs. As the Chairman knows, the 2002 Farm Bill addressed this issue through a delicate compromise acceptable to rural members across different regions of the country. Any erosion of this compromise would penalize producers in my West Texas district who would be punished for the efficiencies they have achieved. To clarify for my constituents who strongly oppose the Senate provision, I would like to ask the distinguished Chairman of the Budget Committee if the Senate payment limit provision was dropped in conference?

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. NEUGEBAUER. I yield to the gentleman from Iowa.

Mr. NUSSLE. Mr. Speaker, that provision is still in the budget. We worked to preserve that. I appreciate the gentleman's leadership on that. The provision in the Senate-passed budget resolution concerning the farm payment limitation is not included in the conference version. I thank the gentleman for his leadership and his continued efforts in this regard.

The gentleman is correct and I appreciate his leadership on this issue and work to ensure that we keep the promises of the Farm Bill. The provision in the Senate passed budget resolution concerning farm payment limitations is not included in this conference version. Any major changes to farm payment limits or any other agricultural policies should be addressed by the Agriculture Committee which has jurisdiction over these issues.

While the House passed budget resolution, H. Con. Res. 393, included $371 million over five years in reconciliation instructions for the Agriculture Committee, these instructions, which were never intended to reduce critical farm commodity support programs, are not included in the conference agreement.

Mr. NEUGEBAUER. Mr. Speaker, I thank the chairman for his efforts on behalf of my constituents in West Texas.

My constituents will be most pleased and relieved by the decision to remove the Senate's farm payment limit proposal in the conference version of the budget resolution and the Chairman's continued affirmation that neither this budget, nor the House version, will reduce any Farm Bill program payments.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, each Member will be allowed to revise and extend their remarks.

There was no objection.

Mr. NUSSLE. Mr. Speaker, I yield 3½ minutes to the gentleman from Connecticut (Mr. SHAYS), a very valued Member and the vice chairman of the committee.

Mr. SHAYS. Mr. Speaker, as we have developed this fiscal year 2005 budget resolution, I have listened carefully to my colleagues on both sides of the aisle. The one common theme for the many budget alternatives offered by the Congressional Black Caucus, the Blue Dogs, and the distinguished ranking member of the Committee on the Budget on behalf of the Democratic Caucus has been higher taxes and more spending.

I have also heard too frequently that my side of the aisle is cutting spending for important programs, like education, veterans, and health care. The fact is when you look at Federal spending for the last few years, you will see few programs that have not received significant increases, in most cases very significant increases. Only in Washington do we call a spending increase a cut.

I think our budget can be summed up in one word: responsible.

We think it is responsible to control spending at a time of mounting budget deficits. By freezing nondefense, nonhomeland security spending for 1 year, we are taking a painful, but necessary, step towards fiscal responsibility. I strongly support many of these programs, but I also know being fiscally responsible requires tough choices, like we made in the late 1990s, including Members saying no to increases to many popular programs.

We think it is responsible to not raise taxes during a period of economic recovery. The tax relief we passed in 2001 and 2003 fueled the economy to 8.2 percent growth in the third quarter of 2003, the highest growth rate in 20 years; 4.1 percent growth in the fourth quarter of last year; and 4.2 percent growth in the first quarter of 2004. Additionally, the unemployment rate declined from 6.3 percent in June 2003 to 5.6 percent in April 2004. While this substantial growth in the economy is welcome news, we know there is still work to do, particularly with employment. We think it is important to continue the policies that have led to the current economic recovery. The fact is there are more jobs today than ever before, but there are more people looking for work.

We also think it is responsible to plan for ongoing military operations around the world. All of us, on both sides of the aisles, want to make sure we provide whatever resources are necessary for the men and women of our Armed Forces who are risking their lives as we speak. I look at the gentleman from California (Mr. LANTOS) as a good example. For this reason, we have provided $50 billion for fiscal year 2005 for the additional cost associated with our operations in Iraq and Afghanistan.

I would just add it is absolutely critical we give this budget the force of law. The Committee on the Budget has marked up legislation that would reinstate discretionary spending caps and pay-as-you-go on mandatory spending. I appreciate the leadership's willingness to consider this legislation soon after we return in June.

Mr. Speaker, from 1997 until 2001, the books of the Federal budget showed that we were running a surplus. For the 40 years prior to that, the country was running deficits. I was grateful that we played a significant role in crafting the budget in the 1990s that not only got us to balance, but got us there ahead of time. We did it by cutting taxes, controlling the growth of spending, and growing the economy.

□ 2000

This budget begins to use that model to address the deficit and get our country's financial house in order.

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

It is often asked at a time, is America better off than it was 4 years ago? Is it better off at all?

Well, it is.

Homeland security. Since 2000, we have greatly strengthened our homeland security, in part because of the budgets that we have passed to make sure that our homeland is protected through strength. We have created the Department of Homeland Security and more than doubled the funding for homeland security since September 11. With the improved resources, we have increased presence in key ports, the Bio Watch program now on many large U.S. cities, and over 500,000 first responders have been trained. America's homeland security is better off.

Defense. Over the past 3 years, we have made great strides in correcting the defense deficit done in the early 1990s, including increasing the Department of Defense's annual budget by over $110 billion to prosecute the global war on terrorism, greatly improving the military quality of life. Our defense is better off than it was 4 years ago, and it is better off under this budget.

Our economy. The economy is growing now in 2004, the best in 20 years, not on the verge of a recession the way it was when President Clinton left office. Real gross domestic product growth is at its highest pace in 20 years. Payroll employment is growing strongly now. We have had 1.1 million jobs added to this economy just since last August. Manufacturing jobs are increasing, the unemployment rate is falling, and housing markets are the strongest in 20 years. The economy is much better off than it was 4 years ago and it will be better if we continue the policies of this budget.

Our budget is the blueprint that allows these policies to continue, and we will all be better off if we adopt that budget here today. We need to adopt it to provide the strength of this country, the growth for our economy, and the

opportunity for our future. And we can do it without a tax increase and reduce the deficit by over $100 billion next year alone. That is what this budget accomplishes. The other side offers nothing but fear and trying to talk down the economy and trying to scare people about our future. That is not an agenda. Fear and anger is not an agenda.

The agenda we need to adopt today is a positive one of strength, growth, and opportunity for our future; and we can do it if we adopt this conference report on the budget. I ask for the adoption of the conference report.

Mr. HASTERT. Mr. Speaker, I rise today in support of this Budget Conference Report and I urge my colleagues on both sides of the aisle to support.

I want to thank Budget Chairman JIM NUSSLE for his yeoman's work under difficult circumstances.

My friends, this is a war-time budget.

We are at war, a war started on September 11, 2001.

This is world war, stretching from Afghanistan to Iraq, to almost every other continent on the globe.

This war has two battlefields.

One is the foreign theater, where our troops are fighting a more conventional war, fought by our brave soldiers in Afghanistan and Iraq. The Department of Defense is coordinating this fight.

The other battlefield is here at home, where we are fighting against unknown terrorists. Our Department of Homeland Security is coordinating that fight.

This budget includes responsible increases for both Departments. It also includes 50 billion dollars for possible additional expenditures on the war. Everything else is kept at a freeze level.

To those who don't like this budget, I say this is the most fiscally responsible budget conference report we have considered on the House floor since I have been in the Congress.

Now some of our friends on the other side of the aisle don't like the modest number we include for tax relief in this budget. But they won't be satisfied until we raise taxes on every man, woman and child in America.

We keep the tax cuts in place because the tax cuts keep the economy growing. In fact, since we last met on the floor to talk about the budget, the economy has grown so quickly, that the estimates of the 10-year budget deficit have dropped by a hundred billion dollars. That is why we want to keep the tax cuts in place. To keep more people working, to keep the economy growing, to keep America strong, and to win this war. That is why we need to pass this budget.

Mr. Speaker, let's pass this budget and start the process of getting our work done for the rest of the year.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in this distinguished body wanting more for the American public we were sworn to represent. It was my sincere hope that after 7 weeks in a Conference with Members of the Senate, that Republicans would find a way to make this budget better than it was; instead they somehow found a way to make it worse. Not only does this conference report maintain the prior insufficient funding for vital issues like education, veterans funding, and Homeland Security; but this conference report may very well be the most irresponsible piece of budget legislation to ever come before this body.

The fact that this conference report only truly provides budget figures for 1 year goes beyond being irresponsible, but is in fact cowardly. It is cowardly because the Republicans are putting out a 1-year budget to hide from the long term effects of their own reckless fiscal policies. The truth about this conference report is the same truth that was evident from President Bush's budget and then the House version of the budget; the truth is that Republicans will go to any length to permanently extend tax cuts that benefit the rich.

No longer can Republicans in either body of Congress claim that Democrats are the ones who hold irresponsible fiscal policies. It has been in fact the Democrats who time after time have argued for a lower deficit and more reasonable planning. It has been Democrats who have been working tirelessly to get our budget back into balance. Instead of embracing these goals, goals that the American people clearly care about, the Republicans have decided instead to pursue an extreme agenda that only truly benefits upper-class Americans.

The last time Congress provided a one-year budget was 1979. Any reasonable person can tell you why that is true, because you need to know that the decisions we make today will still make sense in the future. The sad truth is that this conference report is bad now and getting exponentially worse in the future; and the Republicans know it's true.

A vote for this conference report is also a vote to increase the debt limit by $690 billion, to a new limit of $8.1 trillion. When in the history of this Nation or any other nation in fact, has it been in the best interest to incur more debt? Again, the truth is clear, Republicans have used this budget for one reason and one reason alone, to make permanent their tax cuts for the wealthy. In fact, their oneyear budget provides $122 billion less in defense funding than the President has requested for 2006 through 2009. Instead of making a reasonable compromise, Republicans in both chambers of Congress have found a way to increase the debt while still under-funding vital national priorities.

This conference report may also be classified as cowardly because not only does it shy away from budget enforcement rules, but it runs and hides. Once again, the truth is open and known; Republicans refuse to have any reasonable constraint on their reckless tax policies.

The most disturbing aspect of this conference report is the way it avoids practical Pay-As-You-Go (PAYGO) budget enforcement rules. For years, the calls for fiscal responsibility were deafening from the Republicans in this body and yet when they have the opportunity to truly be responsible they decide to take the course of recklessness. When Democrats wanted to increase funding for necessary programs in education, veterans funding, and Homeland Security we were told that increasing spending would harm the economy. Yet, when Republicans themselves present wholesale changes in tax policy that have only been proven to benefit the wealthy, they are unprepared and unwilling to offer any offsets. This conference report will make these drastic tax cuts permanent with having any offsets to help bring our budget in to balance. Revenues coming in to the Federal Government are at an all-time low and yet this nation's needs are increasing.

This conference report represents the kind of irresponsible budget policies that have failed this Nation before. Republicans have not lived up to the promises they have made in the past. Unfortunately our children will be the ones forced to live with the consequences if we allow this conference report to pass today.

Mr. BARRETT of South Carolina. Mr. Speaker, as we know, the policies we've put in place to support economic growth are working.

But in addition to getting and keeping the economy going, we must also control spending. It matters. If you're going to say that deficits matter, you'd better believe that spending matters. All spending must be paid for, either through taxes or borrowing—and both are burdens on the economy. And for that simple reason alone, controlling spending is itself a policy for sustaining stronger economic growth.

This budget calls for several measures to help us get our hands around what has become an unsustainable rate of spending growth. This includes holding the line on all nondefense, nonhomeland security spending.

As Chairman NUSSLE mentioned earlier, this won't be easy. Many of us here in Congress have gotten pretty comfortable signing off on huge spending increases, and free-flowing new spending.

But success at keeping taxes and spending down will mean a stronger economy and better standards of living for our Nation. If we don't control spending the result will be higher borrowing or higher taxes.

Federal Reserve Chairman Greenspan has agreed that we need to control spending, not raise taxes, if we want to make sure that we don't harm our economy and our standards of living.

Here is his quote:

> Tax rate increases of sufficient dimension to deal with our looming fiscal problems arguably pose significant risks to economic growth and the revenue base. The exact magnitude of such risks are very difficult to estimate, but they are of enough concern, in my judgment, to warrant aiming to close the fiscal gap primarily, if not wholly, from outlay restraint.

The simple translation of what he said is that we need to restrain spending because the economy would be hurt by higher taxes. Our budget resolution does just that: it restrains spending and keeps taxes from increasing. That's good for our economy, and it's good for our Nation.

Mr. SPRATT. Mr. Speaker, the Budget Resolution Conference Report marks the end of a long, arduous process, during which our staff do most of the work and get little of the credit they are due. I would like to thank my excellent staff for their expertise and energy and tireless work. They are as follows: Tom Kahn, Sarah Abernathy, Arthur Burris, Linda Bywaters, Dan Ezrow, Jennifer Friedman, Jason Lumia, Sheila McDowell, Diana Meredith, Joe Minarik, Kimberly Overbeek, Scott Russell, Andy Smullian, Lisa Venus, Andrea Weathers, and Jesse Contario.

Ms. WATSON. Mr. Speaker, I rise to oppose the Republican budget that we are being asked to vote on today. For several years now, responsible Members of this body have been speaking out against a budgeting process that has been getting more absurd and undemocratic by the year.

But I believe this year that the Republican leadership has outdone itself. Again this year, Republicans have given us a budget that fails to pay for health care, fails to pay for schools, fails to pay for veterans, and fails to pay for roads. Again this year, they have given us a budget that increases the debt that our children will have to pay, tying a thousand-pound weight around the neck of our economy.

But this year, the Republican leadership has added a new twist. This budget is structured so that it cannot even be passed by the other body and become law.

For those Americans outside of Washington who are watching this tonight, you deserve to know something about the cynical exercise we are engaged in here. The vote we will cast tonight will be purely symbolic. It will only be symbolic because some Republicans on the other side of the Capitol Building are finally saying enough is enough—that we cannot continue to rack up debt and force it onto our children. I regret that the Republican leadership in this House has not yet reached the same conclusion and decided to get our fiscal house in order.

Mr. EVANS. Mr. Speaker, I rise in opposition to S. Con. Res. 95. As too many of us in this body know, this budget is a sham. It fails to account for the real costs of waging the war in Iraq and Afghanistan. At least on the House side, it allows tax cuts for the wealthiest Americans to go forward unchecked, while spending for important domestic programs is laid to waste.

Among those high priorities that will be severely underfunded is veterans' health care. Committee on Veterans Affairs Chairman CHRISTOPHER H. SMITH and I submitted Views and Estimates to the Budget Committee requesting that it add $2.5 billion to VA's budget for fiscal year 2004. This was not a ''pie in the sky'' request, but rather, focused on maintaining current services, restoring funds from the administration's failed proposals to increase copayments and introduce new enrollment fees, and slightly enhancing some services that will have to respond to the needs of demobilizing troops. The resolution we are voting on today will make less than half of these funds available to VA's discretionary programs.

Mr. Speaker, sadly, I realize VA programs are among those considered ''protected'' in this budget fiasco. Many social programs will fare worse. Unfortunately, that's not good enough for our veterans, especially during a time of war when we should be most sensitive toward keeping our promises to the men and women who have borne the battle.

Many of the major veterans' organizations have expressed great concern about the budget. As underfunded as the budget was by the Committee's reckoning, it is even more so according to the Independent Budget. The four major veterans service organizations who prepare this document estimate that VA requires almost $4 billion to maintain its services in fiscal year 2005. And that's not the worst of it—budget process bills that may be put forth in the near future may use the projections of future years spending to bind us to even more inadequate budgets. So as bad as fiscal year 2005 looks, the outlook for future years could be even bleaker.

Mr. Speaker, we must do better by the veterans who have served us. We must do better by the American people. Vote ''no'' on accepting this Conference Report.

Mr. DINGELL. Mr. Speaker, once again I rise in opposition to the irresponsible budget conference report before us today.

This conference report, for the first time in over twenty years, only provides us with a one-year budget plan. In the first version of the bill, my colleagues attempted to use a five-year budget instead of a ten-year budget to hide the massive fiscal irresponsibility of their plan. Now, because even a five-year plan was too much, they have reduced it even further to merely one year. There is no plan to reduce the deficit or to provide funding for this Nation's most important domestic programs, for our veterans, our seniors and our children. This rascality on the part of my Republican colleagues is unacceptable. The American people deserve to know the outrageous bills the Bush Administration is racking up in their name and with our children's credit.

Further, this bill included $55.2 billion in additional tax giveaways which will only add to the already ballooning deficit. My Republican colleagues will not even apply the ''pay-as-you-go'' (PAYGO) method to these tax giveaways because they know we cannot afford them. The PAYGO enforcement rule is a mere common sense attempt to steer clear of unnecessary excessive spending. This is especially necessary to afford the tremendous costs of war which we face today. In this budget, the PAYGO rule is only applied to entitlement spending for one year, and in reality would only apply to legislation in the Senate.

If this budget passes, we will also be agreeing to increase the debt limit by $690 billion, to $8.1 trillion. Including this measure in the budget and not as stand-alone legislation, is merely an attempt to conceal the catastrophic costs incurred by the fiscal policy of this Administration and Congress.

On the Medicare side, Republicans offer no proposals to improve the insufficient Medicare drug benefit enacted last year. Also absent from this budget are other proposals that could improve the Medicare program such as funding for increased nursing home staffing and quality improvement or fixing the flawed payment system for doctors. Nor are there any proposals to protect the Medicare program from being overcharged and defrauded by private insurance companies and Health Maintenance Organizations. And of course, there is the similarly outrageous effort of this White House to hide from both Democrats and Republicans the true cost of their Medicare privatization bill, which truly makes me wonder whether any of their budget numbers can even be trusted.

This budget continues the Republican war on the environment. The President and Republicans will try to sound like they are environmentalists, but the truth is in this budget which contains drastic cuts to major environmental protection programs. This budget cuts discretionary environmental spending by $900 billion below 2004 levels. My Republican colleagues would rather give tax breaks to their fat cat friends than invest in clean water and cleaning up toxic waste sites.

In addition, this budget does nothing to protect the Social Security trust fund, five years from when the first of the baby boomer generation reach retirement age. These Republicans' fiscal mismanagement will squander the entire $1 trillion Social Security surplus, adding to the ballooning deficit and throwing the long term economic security of millions of Americans into doubt.

For education, No Child Left Behind is already dramatically under funded and this budget will continue this disgrace. We cannot leave the states to pick up the tab for this federally mandated program. Special education, after school programs, teacher training, Pell grants, Perkins loans, and vocational education are all either frozen or cut under this draconian budget. I wonder if my colleagues on the other side of the aisle are trying to ensure that public schools fail so they can privatize the entire system?

We need to get back to fiscal responsibility and get the nation's economy back on track before this economic crisis gets even further out of control. We need to take care of our veterans, our children and our environment. We need to ensure that our citizens have healthcare and education and opportunities. This conference report is nothing but a sham and I urge my colleagues to reject it.

Mr. LANGEVIN. Mr. Speaker, today I rise in opposition to the conference report on S. Con. Res. 95, the Republican budget.

Rhode Islanders are facing challenges on many fronts, and the budget resolution gave us an opportunity to address many of them, including education, health care, and housing shortfalls. Instead, Republicans chose to continue borrowing money from future generations to pay for their failed fiscal policies that have left the economy more than two million jobs lighter since the beginning of the current Administration. Under the Republican budget, the obstacles we face today will only grow in the coming years.

Although I did not believe it possible, the conference report before us today is actually less fiscally responsible than the budget which barely passed this House in March by a razor thin margin of 215–212. As a member of the Select Committee on Homeland Security and the Armed Services Committee, I understand the unprecedented challenges our nation is facing at home and abroad. All of us want to ensure that our troops have all the resources needed to protect us and themselves at home and abroad. Both the physical and economic security of our families are at stake. Working within this framework, the Republican leadership could have negotiated a bipartisan compromise that both parties could support, but instead continued down an ideological path without reaching out to Democrats.

This budget has too many shortfalls to list, so I will just cite a few of the most egregious problems. For the first time in more than two decades, the budget conference report fails to specify multi-year policy numbers. By providing the costs for only a single year of programs and policies, the budget provides no plan to reduce the deficit and no commitment that critical resources for defense, homeland security, education, health care, veterans, and other priorities will be available in future years. The absence of meaningful numbers beyond the first year masks the true consequences of Republican priorities.

In addition, this budget automatically raises the debt limit by nearly $700 billion, to $8.1 trillion. There will be no further debate or votes on this crucial issue that affects the pocketbooks of every American. At a time when the CBO anticipates a budget deficit of more than $400 billion, Congress must make the difficult decisions to return our budget to balance, but the Republicans failed to do so.

Finally, the budget rejects legitimate Pay-As-You-Go enforcement rules to keep the

budget deficit in check. The PAYGO rules would ensure that the government does not increase spending or cut taxes unless these changes would not add to the deficit. PAYGO rules fueled the unprecedented economic and job growth during the 1990s, but the budget before us chooses irresponsible deficits over fiscal restraint.

Deficit spending has stymied job growth and is plaguing our economy. We are facing a record deficit with no plan to return the budget to balance. No Rhode Islander would write a check without sufficient funds to cash that check. Neither should the government.

I urge my colleagues to join me in opposing the Republican budget and working towards a bipartisan, fiscally responsible plan.

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

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 216, nays 213, not voting 5, as follows:

[Roll No. 198]

YEAS—216

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hensarling
Herger
Hobson
Hoekstra
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—213

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Franks (AZ)
Frost
Gephardt
Gerlach
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Ballance
Delahunt
Hayworth
Leach
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 2028

Mr. SERRANO and Mr. GERLACH changed their vote from ''yea'' to ''nay.''

Mr. HOBSON and Mr. BACHUS changed their vote from ''nay'' to ''yea.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3473

Mr. CAMP. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3473.

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

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The SPEAKER pro tempore. Pursuant to House Resolution 648 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4200.

□ 2028

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, with Mr. SWEENEY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, amendment No. 2 printed in House Report 108–499 offered by the gentlewoman from California (Mrs. DAVIS) had been disposed of.

AMENDMENT NO. 3 OFFERED BY MR. HUNTER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. HUNTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 416, noes 4, not voting 13, as follows:

[Roll No. 199]

AYES—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—4

Conyers
Kucinich
Lee
Woolsey

NOT VOTING—13

Baird
Ballance
Burr
Delahunt
Dooley (CA)
Emerson
Gephardt
Hayworth
Jones (NC)
Leach
Murtha
Smith (WA)
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 2045

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. BAIRD. Mr. Chairman, on rollcall No. 199, the Hunter amendment, had I been present, I would have voted "aye."

The CHAIRMAN pro tempore (Mr. SIMPSON). It is now in order to consider amendment No. 4 printed in House Report 108–499.

AMENDMENT NO. 4 OFFERED BY MR. WELDON OF PENNSYLVANIA

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. WELDON of Pennsylvania:

At the end of subtitle A of title XII (page 424, after line 12), insert the following new section:

SEC. 12____. SENSE OF CONGRESS ON DESTRUCTION OF ABU GHRAIB PRISON IN IRAQ.

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

(1) Under the regime of Saddam Hussein, the Abu Ghraib prison in Iraq was one of the world's most notorious prisons.

(2) Under that regime, as many as 50,000 men and women were jammed into the prison at one time in 12 feet by 12 feet cells.

(3) Under that regime, many people were tortured and executed in the Abu Ghraib prison.

(4) Recent activities have further highlighted the horrible memories that Abu Ghraib stands for.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Defense should assist the Iraqi Government, with the approval of that government, in destroying the Abu Ghraib prison and replacing it with a modern detention facility.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Pennsylvania (Mr. WELDON) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. WELDON).

□ 2045

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment with my good friend and colleague, the gentleman from Pennsylvania (Mr. MURTHA).

This amendment is a sense of Congress that gives the authority to the administration and the Pentagon with the appropriate approval of the new government of Iraq to dismantle the Abu Ghraib Prison that has been the site of so much torture under Saddam's rule and the most recent embarrassment we have had with our troops that have been administering that prison.

In the era of Saddam Hussein, Mr. Chairman, Abu Ghraib, 20 miles west of Baghdad, was one of the world's most notorious prisons with tortures, weekly executions, and vile living conditions. As many as 50,000 men and women were jammed into Abu Ghraib at one time in 12-by-12-foot cells that were little more than human holding pits.

Under Saddam Hussein, there were 4,000 prisoners executed in this prison in 1984. In December of 1997 more than 800 prisoners were executed, including 30 members of the Iraqi National Congress in an effort to clean the prison. On April 27, 1998, between 6 a.m. and 9 p.m. 2,000 inmates were executed in mass firing squads and hanging halls in an ongoing cleaning of the prison.

On December 13, 1998, there was an execution of 81 political detainees, including 18 members of the armed services.

Between October and December of 2000, Qusay Hussein executed 1,000 prisoners at this site. The closed wing of the prison housed only Shiite prisoners who were kept in 12-by-12-foot cells containing an average of 40 prisoners each.

Many of the Kurdish prisoners who were held in this prison and were out of sight were subjected to experimental chemical and biological programs. If we look at the studies by Amnesty

International and other U.N. groups, under Saddam Hussein, torture victims in Iraq in this prison were blindfolded, stripped, suspended from their wrists for long hours. Electric shocks and probes were used, including areas of the genitals, ears, the tongue and fingers. They were beaten and whipped. Every type of treatment that was inhumane and unimaginable was done in this prison.

It should have been closed down and it should have been torn down when we liberated Iraq, and it was not done. Unfortunately, for several months last year a small number of our soldiers, as yet to be determined, were involved in embarrassing situations with Iraqi prisoners that we detained.

Now, our justice system works very quickly. And I am proud to report to our colleagues today that within 2 hours, the first soldier that was involved in committing acts that many would call in violation of the Geneva Final Accord was convicted, having pled guilty to crimes against prisoners. This will follow very quickly a justice system that will not drag out for months or years, but within a matter of weeks will hold our American service personnel, a very small number of them, accountable for acts that they committed at this same prison.

What we are saying in this amendment very simply, Mr. Chairman, is assuming the new Iraqi Government, which will take place on July 1, agrees, and it will be their decision because it will be their country, then we are encouraging our Defense Department to work with that government in tearing down this symbol of terrorism, in tearing down this symbol of torture and hatred, to send a clear signal to the Iraqi people that this era of terrible atrocities has really ended; and a new prison will be constructed either at that site or some other site, to allow Iraq to house the prisoners that they have to hold for proper trial and for jurisprudence.

It is the sense of the Congress that the Secretary should assist the Iraqi Government, with the approval of that government, in destroying the prison and replacing it with a modern detention facility.

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

Mr. McCOTTER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman is recognized for 10 minutes.

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

Mr. Chairman, while I strongly support the underlying bill and fully respect the intent of the esteemed Member's amendment, I reluctantly rise in opposition to it, which I believe at present could potentially result in the alacritous demolition of Iraq's Abu Ghraib Prison.

In so rising, I site the present disposition of another notorious site of murder and repression, Ireland's Kilmainham Jail. Built in Dublin by the British, from 1796 until the release of its last prisoner and future Irish president, Eamon de Valera, in 1924, Kilmainham Jail played a grim host to the incarceration, repression, and execution of Irish prisoners by both the English and then, most tragically, by the Irish themselves.

After initially falling into disrepair and dilapidation, the jail's restoration was commenced in 1960 and eventually concluded in the 1980s by the Irish Republic's Office of Public Works. Today, over 150,000 visitors a year come from all over the world to view Kilmainham Jail, for it constitutes a historical mirror into the torturous times which culminated in Irish independence.

In its present state, Kilmainham Jail has been wrested from its inhuman captors' use as a paradigm of oppression and death, and has instead been presented to humanity as an enduring testament to the transcendence and ultimate triumph of the human spirit in the face of evil.

Mr. Chairman, so too must stand Abu Ghraib Prison. For decades, Abu Ghraib Prison housed the murder, torture and rape of Iraqi citizens at the hands of a butcher, Saddam Hussein, and most tragically has seen the inhumane treatment of Iraqi prisoners by an unrepresentative smattering of despicable captors.

Thus, just as Irish suffering secured Irish ownership of Kilmainham Jail's fate, Iraqi suffering has secured Iraqi ownership over Abu Ghraib Prison's fate.

Abu Ghraib is not America's to obliterate as a site of evil. It is Iraq's to elevate as a testament to history and a caution of the future.

Yet, this is but my opinion, for not being an Iraqi, such is not my decision to make. Nor, I caution, is this a decision to be made by the Coalition Provisional Authority or the Iraqi Governing Council. The CPA and IGC are transitory stewards of Iraqi sovereignty. They are not the sovereign government comprised of the Iraqi people. Thus, if the CPA and/or the IGC makes a determination on Abu Ghraib's future, especially its demolition, such an action will be viewed by many Iraqis as having been done at the behest of the U.S. and our allies and not on behalf of the Iraqi people by the Iraqi people.

In a country and a time teeming with missed opportunities and impending deadlines, let us not miss this chance to act presciently, not precipitously.

I make then the following proposal: Immediately upon the transfer of sovereignty from the Coalition Provisional Authority to the Iraqi people on July 1, the United States must formally tender to the Iraqi government Abu Ghraib Prison. Then the Iraqi people and their new sovereign government, without external pressure and through free speech, debate, assembly, petition and all lawful political processes, the very political freedoms we are trying to impart to them, can justly make their final determination upon Abu Ghraib's final fate.

Nothing could more clearly and fully exhibit our true and sustained commitment to our own democratic principles and to the Iraqi people that our manifest comprehension of a few depraved captors' shame does not eclipse thousands of Iraqis' pain.

This is the sovereign Iraqis' decision to make. It is not ours to insist upon or suggest but only to abide.

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

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I happen to think the gentleman has a good amendment. In my opening statement on the bill in the committee, if the gentleman will recall, I suggested this very, very strongly. And without going into great detail, I will just reiterate what I said then and I will agree with the amendment of the gentleman.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the distinguished ranking member and good friend for his comments.

Just for the record, I would remind my good friend and colleague, the gentleman from Michigan (Mr. McCOTTER) that there will no provisional authority when this bill becomes law. The fact that we vote on this tomorrow does nothing because this bill has to go through the process of working with the other body and being signed by the President. That cannot happen and will not happen until probably October or November of this year.

By October or November of this year, there will be no more provisional authority; it will not exist. There will be an Iraqi Government. And that is what this amendment says; it says only if the Iraqi Government suggests and approves that this action be taken is our Defense Department encouraged to cooperate in that effort.

I would say to my friend and colleague, in the institution he cited in Ireland, there was no U.S. involvement that I am aware of in committing atrocities at that Irish prison. And so perhaps that prison stands to the atrocities caused by those people in Ireland who committed them.

In this case, as all Arabs know, there were in fact very serious incidents caused by Americans. I do not want that prison to be a testament to American atrocities when the greater symbol for the Iraqi people should be the liberation of that country so that they can take care of their own jurisprudence as we have called for and allow them to move forward without the stigma of what was accomplished by a very small number of American soldiers in that prison.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I just want to join the gentleman and join the gentleman from Pennsylvania (Mr. MURTHA) for what I think is a smart amendment that really brings all of us together on this floor.

We just got through voting almost unanimously on a resolution, or a sense of Congress, that we condemn the acts that occurred. The gentleman just noted that procedures occurred earlier this morning that addressed the question of some of those Reservists and National Guard.

Sometimes we disagree on how far up the chain this accountability should be held, but we do not disagree, if you will, on the symbol that that prison now represents; and as well, we do not disagree on the fact that so many men and women are on the front lines, honorably serving, whether it is in Iraq, whether it is in Bosnia or whether it is in Afghanistan.

I believe this is a solid statement. We know, putting aside the tragedies that happened, that we do not discard, I find them horrific, that this is a place that Saddam Hussein used to cut off fingers, to mutilate, to dehumanize, if you will, over the decades. And now, of course, we have these horrific acts by soldiers which we do not uphold.

This is a forward step. And I would think that if we are moving to a democracy, we do not need any more of the hanging prisons located in Iraq, a new democracy that we are all trying to get to. So I would argue beyond my plea for accountability at the very highest levels for these terrible incidents.

I would say this is a very smart amendment. I ask my colleague to support it.

Mr. WELDON of Pennsylvania. Reclaiming my time, I thank the gentlewoman for her comments.

I would say in closing, Mr. Chairman, this does not mandate one thing. This does not require one action. This amendment simply says to the Department of Defense, if the new Iraqi legitimate government decides they want to proceed, we should assist in tearing down this prison. If the new Iraqi regime and government decides they do not want to proceed, then this amendment has no bearing.

I think it makes sense and I think it lets the new Iraqi Government know that we will be there if they decide to destroy this symbol of terrorism. That should be their decision. And if they make that decision, we should authorize our Defense Department to assist them in removing this symbol of terrorism and torture that has been there for so long.

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

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

First, I am aware of America's not having a role in Kilmainham Jail or grandpa would not have come here in the first place, quite likely. I never implied that. It was never stated.

I think the fact that we are having this debate is a worthwhile debate, but it is not what is reflected in the amendment. If the new Iraqi Government applies, if the Iraqi Government referenced in the amendment on line 17 applies to the new sovereign Iraqi Government, it should say so. And since this seems to be the age of deadlines or timelines, put July 1 or later.

It also should not suggest only one course of action. It should suggest that after a new sovereign Iraqi Government decides what they want to do with that facility, I cannot use that word, that evil site, then we should be able to assist them in whatever decision they make.

I was talking to another Member today, it was kind of ironic, about this situation, and he mentioned he had been to Dachau. And there are two testaments to evil that I can right off think of, Dachau and Auschwitz where America liberated.

Auschwitz, which is in Poland, still stands intact. Dachau is a fence with pictures; Dachau is in Germany.

This is an intensely personal decision for the Iraqi people. It should be done through their sovereign government. There should be no external pressure or suggestions as to what they should do.

I believe that a better amendment would have been that we will assist them and the new sovereign government after July 1 in whatever disposition of that prison that they sought and saw fit, based upon the suffering on that site.

Mr. WELDON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. MCCOTTER. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Chairman, this legislation will pass after July 1, so there is no way that this legislation can apply to a government that exists today because, by the time this legislation is completed, it will be the time frame of October or November or later this year. So by the time this bill is signed into law, there will be no provisional authority. There will be a legitimate Iraqi Government duly elected by the Iraq people under their constitution.

So to reference a date is a moot point because by the time this legislation is passed, that date will far have been over.

□ 2100

Mr. MCCOTTER. Mr. Chairman, reclaiming my time, in a time of war events often lead legislation and precede it.

I have the utmost respect for the sponsors of this amendment and their intent. I believe him about the legislative process. It is my concern that come July 1 Abu Ghraib prison may not stand anymore and may not be there for a new sovereign Iraqi Government to make that determination. That is my concern; and the drafting of the amendment, as such, could arguably allow that to happen with the implicit consent of a House that passed this amendment.

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

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WELDON).

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

Mr. WELDON of Pennsylvania. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. WELDON) will be postponed.

It is now in order to consider amendment No. 5 printed in House report 108–499.

AMENDMENT NO. 5 OFFERED BY MR. MEEK OF FLORIDA

Mr. MEEK of Florida. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. MEEK of Florida:

At the end of title IX (page 348, after the matter following line 21), insert the following new section:

SEC. 9___. SECRETARY OF DEFENSE GUIDANCE ON IDENTIFICATION AND INTERNAL TRANSMISSION OF CRITICAL INFORMATION.

(a) DEFENSE GUIDANCE.—The Secretary of Defense shall establish criteria for determining the types of critical information required to be made known expeditiously to senior decision makers in the Department of Defense. The types of information specified should be matters of extraordinary significance and potential strategic impact and should be immediately necessary to facilitate timely information management in the high-level, decision-making process affecting successful mission accomplishment. The Secretary may from time to time modify the list to suit the current strategic situation, as necessary. The Secretary should provide to the Secretaries of the military departments, the commanders of deployed forces, and other elements of the Department of Defense guidance for the purposes of identifying those critical information requirements.

(b) MATTERS TO BE INCLUDED.—The guidance under subsection (a) shall include, at a minimum, requirement for identification of the following:

(1) Any incident that may require a military contingency based on the incident's nature, gravity, or potential for significant adverse consequences to United States citizens, military personnel, or assets, including an incident that provides opportunities for significant adverse publicity of a nature that could have a strategic impact.

(2) Any event, development, or situation that can be reasonably assumed to escalate into a significant adverse incident described in paragraph (1).

(3) Any deficiency or error in policy, standards, or training that can be reasonably assumed to foster significant adverse incidents described in paragraph (1).

(c) POLICY FOR TRANSMISSION OF INFORMATION TO OSD.—The Secretary of Defense

shall establish a policy for the transmission from any element of the Department of Defense as expeditiously as possible to the Secretary of Defense and the Joint Chiefs of Staff of any report, assessment, or evaluation commissioned from any level within the Department of Defense that results in the identification of any of the items on the list required by subsection (a). As part of that policy, the Secretary should establish a timetable for transmission of any such report, assessment, or evaluation to the responsible major command upon receipt of the final document by the commissioning authority.

(d) TIME FOR ISSUANCE OF GUIDANCE.—The Secretary of Defense shall establish the list required by subsection (a) and issue the guidance required by that subsection not later than 90 days after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Florida (Mr. MEEK) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. Mr. Chairman, I yield myself as much time as I may consume.

First of all, I am so appreciative here tonight. I want to thank the gentleman from California (Chairman HUNTER) and also the gentleman from Missouri (Ranking Member SKELTON) for the work that both their staffs have put on this amendment.

In the Committee on Armed Services we had great discussions about some of the testimony we heard from Joint Chief of Staff Myers and also from Secretary of Defense Donald Rumsfeld about some of the issues that happened in Iraq that did not necessarily make it to the top of the chain of command, but they were committed to making sure that we correct those inequities within the DoD chain of command.

What this amendment does that I am offering today is making sure that the critical information from the theater moves up to the Pentagon when that information warrants.

It requires the Secretary to make sure that he identifies what kind of information he needs to know to determine the information that is critical to the strategic plan in theater, giving instructions to personnel on how to identify that information when they see it, and allow it to make it to the Secretary for them to determine how to deal with it in a timely manner.

The Secretary will also deem what is important information and what is not important information. This is basically giving some level of direction and a great deal of discretion to the Secretary, but making sure that this information can get to the Secretary's desk as soon as possible.

Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, let me take a moment. I rise in support of this amendment offered by my good friend from Florida.

When the Secretary of Defense appeared before the House Committee on Armed Services testifying about the prison abuses, he stated he could not possibly monitor each of the thousands of ongoing cases which might be important enough to warrant his needed attention. He does not need to do that. He needs to monitor only those ones that have potential strategic impact; and during that hearing and in subsequent discussions and investigations, it has become apparent that he has no mechanism to lift those sorts of matters to his attention expeditiously.

The gentleman from Florida's (Mr. MEEK) amendment does just that, and I support it.

Mr. MEEK of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I want to say I do not think we need to take time on this side except to just say I think we have got a good work product here, and I think this reflects some pretty good bipartisan work in what are fairly useful sessions where we have briefings by SEC DEF and the other relevant leadership in DoD.

He brought up the fact, and we talked about the fact, that in the Abu Ghraib prison situation you had General Sanchez starting an investigation immediately after the soldier came forward, and the investigation proceeded apace; and under the UCMJ, the prosecutions proceeded apace; but nobody flagged this as something of particularly extraordinary or explosive impact. So we did not have a system that flagged something.

In this age of television and instant communications, these pictures were out in the press before SEC DEF knew about it or we knew about it or other people knew about it.

So I think this is a good result of the gentleman understanding that, talking it back and forth with DoD. The gentleman from Missouri (Mr. SKELTON) worked on it, and we looked at it and worked on it; and I think the gentleman has a good work product here. It is a way in which they can do essentially what I understand the Air Force has right now, which is when you have something that could have enormous impact, it is flagged up the line so the Secretary and the other leadership can act on it.

I think the gentleman has done a good job, and I appreciate his thoughtfulness and his hard work on the committee; and I think this is a good amendment.

Mr. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

I just want to say, Mr. Chairman, that I appreciate the insight, also the insight from the gentleman's staff and the Democratic staff here. This is working towards definitely troop protection in theater and making sure that at the highest levels of the Pentagon that there are some criteria of what is critical to strategic planning and troops in theater.

So I want to thank the Chairman for his help.

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

The CHAIRMAN pro tempore. Does any Member claim time in opposition to the amendment?

The question is on the amendment offered by the gentleman from Florida (Mr. MEEK).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 6 printed in House Report 108–499.

AMENDMENT NO. 6 OFFERED BY MR. HASTINGS OF FLORIDA

Mr. HASTINGS of Florida. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. HASTINGS of Florida:

At the end of subtitle A of title XII (page 424, after line 12), insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING LIMITATION ON USE OF FUNDS FOR THE RECONSTRUCTION OF IRAQ.

It is the sense of Congress that—

No funds available to any department or agency of the United States Government may be used to provide assistance for the reconstruction of Iraq unless the President certifies to Congress that the United States Government has entered into an agreement with the Iraqi Governing Council or a transitional government in Iraq under which Iraq agrees that it will expend a significant portion of its revenues generated from oil production for reconstruction activities in Iraq.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Florida (Mr. HASTINGS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, for working with me to make this amendment in order; and I commend the gentleman from California (Mr. HUNTER), the chairman of the Committee on Armed Services; and the gentleman from Missouri (Mr. SKELTON), the distinguished ranking member, my very good friend, for the work that they have done on this entire bill.

Mr. Chairman, we can all agree wholeheartedly that supporting our soldiers and providing them what they need to get the job done is our highest priority. However, there are some other important matters that must also be addressed regarding the National Defense Authorization Act, issues that the American people want to hear about.

From the President on down to many of us, we have the view that Iraq could fund its own reconstruction. Prior to the war, the Secretary of Defense and his deputy testified to Congress that a war in Iraq and subsequent reconstruction costs could be financed by oil profits in Iraq.

This was reconfirmed on March 27 when Deputy Secretary of Defense Mr. Wolfowitz suggested that Iraqi oil revenues could pay for the cost of reconstituting Iraq. To date, Congress has already appropriated $148 billion to fund the war and reconstruction efforts, and the President is requesting an additional $25 billion for fiscal year 2005.

Moreover, Deputy Secretary Wolfowitz has suggested that between 50 and $60 billion is actually needed, and I, for one, agree with that; but this funding has yet to be supplemented by Iraqi oil revenue.

My amendment expresses the sense of Congress that no funds available for Iraqi reconstruction purposes may be used unless the President certifies to Congress that the United States Government has entered into an agreement with Iraq that it will expend a significant portion of its revenues generated from oil production on its own reconstruction.

This amendment is not intended to use Iraqi oil money to finance the broader U.S. military campaign. Instead, it states that the United States ought to share the cost of Iraqi reconstruction with the free government of Iraq for the benefit of the Iraqi people.

The United States has a responsibility to finish what we are involved in in Iraq. Iraq is an integral and critical ingredient in our recipe for success in the entire region. Nevertheless, the American people should not be expected to bear the full burden of these costs. American tax dollars are building roads in Mosul, but not in my hometown of Miramar.

We are building schools in Baghdad, but not in Boston; and we are funding hospitals in Basra, but not Baltimore. I find this troubling, especially in light of Iraq's vast natural resources and some of the comments that have been made regarding the funding reconstruction efforts with Iraqi oil revenue.

The fact is that if that is unhealthy for Iraq, it should not be healthy for the United States. After all, we are not the ones sitting on a $7 trillion oil reserve. At the very least, Iraqis should share this economic burden. To finance this huge effort, we need partners; and Iraq should be our first and foremost partner in the rebuilding of their country. We cannot afford these efforts any other way, and I ask for my colleagues' support for my amendment.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I think this is a good amendment, and I join the gentleman; and I urge its adoption.

We support the Iraqis. Everyone in America knows that, and we are supporting them with nearly 140,000 troops, $87 billion-plus in reconstruction funds, and I think the Americans expect this oil-rich country to help pay for reconstruction. This is not unreasonable to expect that they start investing in their own future as well.

As their oil sector recovers, they should be reinvesting those revenues in their own future. I think all across our country people will say why not, what is wrong with the Iraqis paying for their very own reconstruction and helping us in the process.

So I congratulate the gentleman, and I urge the adoption of this.

Mr. HASTINGS of Florida. Mr. Chairman, I thank the ranking member for his comments.

Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. HUNTER), the chairman.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for the time, and let me just add to the remarks made by my colleague, the gentleman from Missouri (Mr. SKELTON). I think it is absolutely appropriate that Iraqi resources be used to rebuild Iraq, and we have no objection to this amendment.

Mr. HASTINGS of Florida. Mr. Chairman, I am pleased to yield back the balance of my time.

The CHAIRMAN pro tempore. Who seeks time in opposition?

The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 14 printed in House Report 108–499.

AMENDMENT NO. 14 OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, as the designee of the gentlewoman from New York (Ms. SLAUGHTER), I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. SKELTON:

At the end of title V (page 200, after line 24), insert the following new section:

SEC. 598. DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.

(a) COMPREHENSIVE POLICY ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS.—(1) Not later than January 1, 2005, the Secretary of Defense shall develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces.

(2) The policy shall be based on the recommendations of the Department of Defense Task Force on Care for Victims of Sexual Assaults and on such other matters as the Secretary considers appropriate.

(b) ELEMENTS OF COMPREHENSIVE POLICY.—The policy developed under subsection (a) shall address the following matters:

(1) Prevention measures.

(2) Education and training on prevention and response.

(3) Investigation of complaints by command and law enforcement personnel.

(4) Medical treatment of victims.

(5) Confidential reporting of incidents.

(6) Victim advocacy and intervention.

(7) Oversight by commanders of administrative and disciplinary actions in response to substantiated incidents of sexual assault.

(8) Disposition of victims of sexual assault, including review by appropriate authority of administrative separation actions involving victims of sexual assault.

(9) Disposition of members of the Armed Forces accused of sexual assault.

(10) Liaison and collaboration with civilian agencies on the provision of services to victims of sexual assault.

(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

(c) REPORT ON IMPROVEMENT OF CAPABILITY TO RESPOND TO SEXUAL ASSAULTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to address matters relating to sexual assaults involving members of the Armed Forces.

(d) APPLICATION OF COMPREHENSIVE POLICY TO MILITARY DEPARTMENTS.—The Secretary shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

(e) POLICIES AND PROCEDURES OF MILITARY DEPARTMENTS.—(1) Not later than March 1, 2005, the Secretaries of the military departments shall prescribe regulations, or modify current regulations, on the policies and procedures of the military departments on the prevention of and response to sexual assaults involving members of the Armed Forces in order—

(A) to conform such policies and procedures to the policy developed under subsection (a); and

(B) to ensure that such policies and procedures include the elements specified in paragraph (2).

(2) The elements specified in this paragraph are as follows:

(A) A program to promote awareness of the incidence of sexual assaults involving members of the Armed Forces.

(B) A program to provide victim advocacy and intervention for members of the Armed Force concerned who are victims of sexual assault, which program shall make available, at home stations and in deployed locations, trained advocates who are readily available to intervene on behalf of such victims.

(C) Procedures for members of the Armed Force concerned to follow in the case of an incident of sexual assault involving a member of such Armed Force, including—

(i) specification of the person or persons to whom the alleged offense should be reported;

(ii) specification of any other person whom the victim should contact;

(iii) procedures for the preservation of evidence; and

(iv) procedures for confidential reporting and for contacting victim advocates.

(D) Procedures for disciplinary action in cases of sexual assault by members of the Armed Force concerned.

(E) Other sanctions authorized to be imposed in substantiated cases of sexual assault, whether forcible or nonforcible, by members of the Armed Force concerned.

(F) Training on the policies and procedures for all members of the Armed Force concerned, including specific training for members of the Armed Force concerned who process allegations of sexual assault against members of such Armed Force.

(G) Any other matters that the Secretary of Defense considers appropriate.

(f) ANNUAL ASSESSMENT OF POLICIES AND PROCEDURES.—Not later than January 15, 2006, and each year thereafter, each Secretary of a military department shall conduct an assessment of the implementation during the preceding fiscal year of the policies and procedures of such department on the prevention of and response to sexual assaults involving members of the Armed

Forces in order to determine the effectiveness of such policies and procedures during such fiscal year in providing an appropriate response to such sexual assaults.

(g) ANNUAL REPORTS.—(1) Not later than April 1, 2005, and January 15 of each year thereafter, each Secretary of a military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Force concerned during the preceding year.

(2) Each report on an Armed Force under paragraph (1) shall contain the following:

(A) The number of sexual assaults against members of the Armed Force, and the number of sexual assaults by members of the Armed Force, that were reported to military officials during the year covered by such report, and the number of the cases so reported cases that were substantiated.

(B) A synopsis of and the disciplinary action taken in each substantiated case.

(C) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by such report in response to incidents of sexual assault involving members of the Armed Force concerned.

(D) A plan for the actions that are to be taken in the year following the year covered by such report on the prevention of and response to sexual assault involving members of the Armed Forces concerned.

(3) Each report under paragraph (1) in 2006, 2007, and 2008 shall also include the assessment conducted by the Secretary concerned under subsection (f).

(4) The Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives each report submitted to the Secretary under this subsection, together with the comments of the Secretary on each such report. The Secretary shall transmit the report on 2004 not later than May 1, 2005, and shall transmit the report on any year after 2004 not later than March 15 of the year following such year.

(h) REQUIREMENT TO DEVELOP DEFINITION OF SEXUAL ASSAULT.—Prior to developing policies and programs on the prevention of and response to sexual assaults, the Department of Defense, in consultation with the Service Secretaries, shall develop a definition of sexual assault that is uniform for all the Armed Forces, including but not limited to rape, acquaintance rape, sexual assault, and other criminal offenses.

The CHAIRMAN pro tempore. Pursuant to House Resolution 648, the gentleman from Missouri (Mr. SKELTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Missouri (Mr. SKELTON).

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

I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time at this moment.

The CHAIRMAN pro tempore. Who seeks time in opposition to the amendment?

Mrs. CAPITO. Mr. Chairman, I ask unanimous consent to claim the time in opposition, but I am not in opposition.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from West Virginia (Mrs. CAPITO) is recognized for 5 minutes.

There was no objection.

□ 2115

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

Mr. Chairman, Americans are concerned about the welfare of the men and women we send to defend our country. The American people understand that war is violent. What the American people will not tolerate is the assault or rape of a female soldier by a fellow soldier. Simply put, this is unacceptable.

Recent reports of sexual assaults of female soldiers serving abroad, along with numerous cases of assaults in or around military bases, clearly demonstrate the need for the Department of Defense to change their approach to this problem.

Women are serving in the military, and we are mighty proud of them. Along with my colleagues today, the gentlewoman from New York (Ms. SLAUGHTER), the gentlewoman from California (Ms. SOLIS) and the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), we offer this amendment to help the military work through this problem, understand its causes, and put in place measures that will prevent it from happening.

The amendment calls for the Secretary of Defense to increase training for officers so they are better equipped to deal with sexual assaults. The amendment calls for a clear and precise protocol that protects privacy and ensures safety and which women can follow to report an attack. The amendment ensures access to the appropriate medical treatment and counseling for women at all times during their service, no matter where they are in the world. This policy is to be put in place by January 1, 2005.

Members of both the House and Senate, including my colleagues on the Congressional Caucus for Women's Issues, have examined this issue, along with the Department of Defense's Task Force on Care For Victims of Sexual Assault. We agree that the action called for in this amendment is beyond necessary to deal with the multiple incidents of sexual assaults in the military.

These steps, which are being mirrored in the Senate's version of the legislation, will help the Armed Forces prevent attacks from happening, as well as put proper procedures in place that bring aid and comfort to those who have survived attacks.

I am hopeful the action by this Congress will help bring a change in the attitude in the U.S. military. It needs to be made perfectly clear that it is unacceptable to sexually assault a female soldier; and if you choose to make that mistake, you will be held accountable for your actions, no matter who you are, what your rank is, or what condition you serve under. I am in full and hardy support of this amendment.

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

Mr. SKELTON. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentlewoman from New York (Ms. SLAUGHTER), the principal author of this amendment, and that she be allowed to control that time.

The CHAIRMAN pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume, and I thank the gentleman from Missouri very much for his leadership.

Mr. Chairman, I rise in support of an amendment to the fiscal year 2005 DOD authorization bill which I am offering with the leadership of the Congressional Caucus for Women's Issues and my good friend, the gentlewoman from West Virginia (Mrs. CAPITO).

This bipartisan amendment will help us take a first step in addressing the problems of sexual assault within the military. Last Thursday, the DOD Task Force on Care For Victims of Sexual Assault released its report and recommendations concerning the problem based on a 90-day study. The Slaughter/Capito/Solis/Brown-Waite amendment is based on the report findings and will help to implement several of the recommendations made by the DOD task force.

Specifically, it would require the Secretary of Defense to develop a comprehensive policy for DOD on the prevention of and response to sexual assaults involving members of the Armed Forces. This comprehensive policy would be based on the recommendations of the task force. In addition, the amendment would require the DOD to take related measures to address sexual assaults in the military, such as reporting the improvement of DOD's capability to respond to sexual assaults, applying the comprehensive policy to all military departments instead of each branch having its own, modifying the policies and procedures of the military departments, annually assessing the policies and procedures, and issuing reports to the Senate and the House Committee on Armed Services.

On March 31 of this year, the Congressional Caucus for Women's Issues held a forum on sexual assaults in the military and submitted its report from the caucus to the Secretary. The Congressional Caucus for Women's Issues has committed to continuing to take a leadership role in addressing this issue.

Mr. Chairman, 120 women have already come back from Iraq saying they have been sexually assaulted by their fellow soldiers. Only 20 of them reported it in the military because of the fact it would end their career. We want to change this attitude and this culture.

Now, a similar version of this amendment has already been included in the Senate version of the fiscal year 2005 DOD authorization bill and has good bipartisan support in the Senate. It has been developed in consultation with the Pentagon and is intended to help the Pentagon start implementing the concrete proactive measures that are outlined in the task force's report.

We want to help, because the Pentagon, in previous reports, has stated

over and over again the problem; but very few solutions have come from it. It is by no means intended to be a quick fix to the problem of sexual assault, but, instead, is intended to be a positive first step towards remedying this terrible problem.

Along with my colleagues on the Congressional Caucus for Women's Issues, I also plan to introduce a comprehensive legislation package to deal with other aspects of this issue based on the findings from the Congressional Caucus for Women's Issues hearing, additional research and information that we have been gathering, as well as the task force report.

We look forward to continuing to work together in a productive manner to eliminate sexual assaults of our United States servicewomen. Again, it is a first step, and I encourage my colleagues to approve this amendment to the fiscal year 2005 DOD authorization bill.

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

Mrs. CAPITO. Mr. Chairman, I yield myself 1 minute. Mr. Chairman, I want to take this time to thank the members of the Congressional Caucus for Women's Issues, and my co-chairwoman, the gentlewoman from New York (Ms. SLAUGHTER). Her work on this issue has been very valuable, and she has been very aggressive; and I think the result of our hearings are bearing fruit here in this amendment.

I would also like to thank the chairman of the committee and the ranking member for their letting us offer this amendment and also, hopefully, making it a part of the bill.

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

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS), the vice chair of the Congressional Caucus for Women's Issues on the Democratic side.

Ms. SOLIS. Mr. Chairman, today I rise in support of the amendment as vice chair of the Congressional Caucus for Women's Issues. As we all know, our dedicated military servicemen and -women dedicate and risk their lives in order to protect our great Nation. We stand united on both sides of the aisle today as the Congressional Caucus for Women's Issues to bring awareness to an alarming trend of sexual assaults against women in all branches of the military.

The Pentagon itself has reported more than 100 cases of sexual assaults amongst troops deployed in Iraq and Afghanistan over the past 14 months. These numbers are not necessarily reflective of the actual situation, because women are discouraged from seeking help or reporting their assaults because of our military system, which has no comprehensive policy to address sexual assaults.

We are in the midst of a growing problem of violence against women that will not be tolerated. In March, the Congressional Caucus for Women's Issues held a hearing on sexual assaults in the military, where we heard directly from a courageous survivor, Captain Machmer. Her message was very powerful and clear: the military has a pervasive culture that needs to be aggressively addressed. She said, and I quote, ''My assailant received a reduction in rank to specialist, forfeited $826 for 2 months, and had extra duty for 30 days. And, still, this person works on the base I worked on.''

In fact, studies estimate that 75 to 84 percent of alleged offenders are honorably discharged. What type of message are we sending to women serving in our country, and, more importantly, the next generation of women interested in joining the Armed Forces?

Last week, the DOD Task Force on Care For Victims of Sexual Assault released a report with recommendations. In line with these recommendations, this amendment that we are presenting here tonight would require the Secretary of Defense to develop a comprehensive policy to prevent and respond to sexual assaults in the Armed Forces.

This amendment would also require the Secretary to take steps to improve the Defense Department's capacity to respond to sexual assaults and restructure procedures on how assaults against women are to be handled.

What we need is a commitment to taking action. At this time, when our troops are valiantly committed to our country, I urge my colleagues on both sides of the aisle to support this bipartisan effort.

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

The question is on the amendment offered by the gentleman from Missouri (Mr. SKELTON).

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

Ms. SLAUGHTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Missouri (Mr. SKELTON) will be postponed.

Mr. HUNTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FEENEY) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005, and for other purposes, had come to no resolution thereon.

MAKING IN ORDER ADDITIONAL AMENDMENTS AND MODIFICATION TO AMENDMENT 13 DURING FURTHER CONSIDERATION OF H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. HUNTER. Mr. Speaker, first I just want to commend the chairman pro tempore, the gentleman from Idaho (Mr. SIMPSON), who has presided over the last several hours of debate. I thank him for a great job.

Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 4200, pursuant to House Resolution 648, the amendments I have placed at the desk shall be in order as though printed in House Report 108–499 and numbered 29, 30, 31, and 32; and

amendment No. 13 in that report be modified in the form that I have placed at the desk; and

the amendments and the modification that I have placed at the desk shall be considered as read for purposes of this unanimous consent request.

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

Mr. SKELTON. Mr. Speaker, reserving the right to object, and I shall not object at this point, but I wish to offer a brief explanation to one aspect of one of the amendments addressed by this request offered by the gentleman from California, and I do so on behalf of my colleague, the gentleman from Georgia (Mr. MARSHALL).

Mr. Speaker, if you read the text of the amendment, it is very difficult to decipher, so the unanimous consent request makes in order this amendment to correct a mistake in the drafting of the bill. The amendment proposes to add a military construction project to replace the fire crash/rescue station for Warner Robins Air Force Base, Georgia. The amendment offsets this addition by deleting another military construction project, the Visitors Quarters at Homestead Air Reserve Base in Florida.

With that explanation, Mr. Speaker, I agree with the chairman in his request.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The text of the amendments and the modification are as follows:

AMENDMENT NO. 29

At the end of title X (page 409, after line 13), insert the following new section:

SEC. 1077. PLACEMENT OF MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING NONCITIZENS KILLED IN THE LINE OF DUTY WHILE SERVING IN THE ARMED FORCES OF THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Army shall place in Arlington National Cemetery a memorial marker honoring the service and sacrifice of noncitizens killed in the line of duty while serving in the Armed Forces of the United States.

(b) APPROVAL OF DESIGN AND SITE.—The Secretary of the Army, in consultation with Secretary of Veterans Affairs, shall approve an appropriate design and site within Arlington National Cemetery for the memorial marker provided for under subsection (a).

(c) USE OF FEDERAL FUNDS.—Federal funds shall not be required or permitted to be used for the design and construction of the memorial marker provided for under subsection (a).

(d) AUTHORITY TO ACCEPT DONATIONS.—(1) The Secretary of the Army may accept gifts and donations of services, money, and property (including personal, tangible, or intangible property) for the design and construction of the memorial marker provided for under subsection (a).

(2) The authority of the Secretary of the Army to accept gifts and donations under paragraph (1) shall expire on the date that is five years after the date of the enactment of this Act.

AMENDMENT NO. 30

Page 479, in the table following line 9—

(1) in the item for Robins Air Force Base, strike ''$15,000,000'' and insert ''$21,570,000''; and

(2) in the total at the bottom of the table, strike ''$398,714,000'' and insert ''$405,284,000''.

Page 483, line 2, strike ''$2,493,679,000'' and insert ''$2,500,249,000''.

Page 483, line 5, strike ''$398,714,000'' and insert ''$405,284,000''.

Page 492, line 7, strike ''$114,090,000'' and insert ''$107,520,000''.

AMENDMENT NO. 31

At the end of title I (page 27, after line 10), insert the following new section:

SEC. ___. TRANSFER OF CERTAIN ARMY PROCUREMENT FUNDS.

(a) INCREASE FOR CERTAIN HELICOPTER ITEMS.—The amount provided in section 101(1) for procurement of aircraft for the Army is hereby increased by $4,000,000, of which—

(1) $2,000,000 shall be available for procurement of the Aircraft Wireless Intercom System; and

(2) $2,000,000 shall be available for procurement of bladefold kits for Apache Helicopters.

(b) OFFSET.—The amount provided in section 101(5) for Other Procurement, Army, is hereby reduced by $4,000,000, to be derived from amounts for Information Systems.

AMENDMENT NO. 32

At the end of subtitle F of title V (page 172, after line 9), insert the following new section:

SEC. 5___. ESTABLISHMENT OF COLLEGE FINANCIAL ASSISTANCE PROGRAM FOR DISTRICT OF COLUMBIA NATIONAL GUARD.

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may, in recognition of the unique position of the District of Columbia in the Federal system, provide financial assistance to eligible members of the National Guard of the District of Columbia for expenses of such a member while enrolled in an approved institution of higher education in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution of higher education) leading to a recognized educational credential at the institution of higher education. Any such assistance may be provided only during the program applicability period specified in subsection (i).

(b) AUTHORITY SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—The authority provided in subsection (a) is subject to the availability of appropriations for that purpose.

(c) ELIGIBILITY.—To be eligible for financial assistance under this section, a member of the National Guard of the District of Columbia must—

(1) be a member of the National Guard of the District of Columbia for not less than the 12 consecutive months preceding the commencement of the tuition assistance and continue to be such a member while receiving such assistance;

(2) agree to serve one year in the National Guard of the District of Columbia for each academic year of assistance provided;

(3) be enrolled or accepted for enrollment in a program of education referred to in subsection (a) at an institution of higher education; and

(4) if already enrolled, maintain satisfactory progress in the course of study the member is pursuing in accordance with section 484(c) of the Higher Education Act of 1965 (20 U.S.C. 1091(c)).

(d) COVERED EXPENSES.—Expenses for which financial assistance may be provided under this section are the following:

(1) Tuition and fees charged by an approved institution of higher education involved.

(2) The cost of books.

(3) Laboratory expenses.

(e) AMOUNT.—(1) The amount of financial assistance provided to a member of the National Guard of the District of Columbia under this section shall be prescribed by the Secretary concerned, but may not exceed $2,500 for any academic year. The Secretary concerned shall prorate assistance under this section for members who pursue a program of education on less than a full-time basis.

(2) A member may not receive more than $12,500 under this section.

(f) CONSTRUCTION.—Nothing in this section shall be construed to require an institution of higher education to alter the institution's admissions policies or standards in any manner to enable a member of the National Guard of the District of Columbia to enroll in the institution.

(g) DEFINITIONS.—In this section:

(1) The term ''approved institution of higher education'' means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that—

(A) is eligible to participate in the student financial assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(B) has entered into an agreement with the Secretary concerned containing such conditions as the Secretary may specify, including a requirement that the institution use the funds made available under this section to supplement and not supplant assistance that otherwise would be provided to eligible students from the District of Columbia National Guard.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of the Army, in the case of the Army National Guard of the District of Columbia; and

(B) the Secretary of the Air Force, in the case of the Air National Guard of the District of Columbia.

(h) ANNUAL REPORT.—At the close of each year during which the program under this section is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on the effectiveness of the program in improving recruiting and retention for the District of Columbia National Guard. Each such report shall include such recommendations for changes in law or policy as the Secretary considers appropriate. In the first such report, the Secretary shall include an analysis of means for improving the effectiveness as a recruitment and retention incentive of any program providing tuition assistance for members of the District of Columbia National Guard in existence as of the date of the enactment of this Act.

(i) PROGRAM APPLICABILITY PERIOD.—Financial assistance may be provided under this section to eligible members of the National Guard of the District of Columbia for periods of instruction that begin during the three-year period beginning on the date of the enactment of this Act.

AMENDMENT NO. 13, AS MODIFIED

At the end of title XXXI (page 556, after line 10), insert the following new section:

SEC. 31___. ADDITIONAL AMOUNT FOR DEFENSE SITE ACCELERATION COMPLETION.

(a) ADDITIONAL AMOUNT.—The amount in section 3102 is hereby increased by $50,000,000, to be available under section 3102(1) for defense site acceleration completion.

(b) OFFSET.—The amount in section 301(4), operation and maintenance, Air Force, is hereby reduced by $50,000,000, to be derived from the transportation capital fund.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to section 3 of House Resolution 649, the managers on the part of the House on H.R. 2660 are discharged and the bill is laid upon the table.

TRIBUTE TO TWO FALLEN VIRGINIA SOLDIERS

(Mr. GOODE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Speaker, as we approach Memorial Day 2004, I rise today to salute two members of the military from the Fifth District of Virginia who gave their lives in service to the United States in the war on terrorism.

Lieutenant Colonel William R. Watkins III, lived in Halifax County; and Sergeant Michael Dooley lived in Bedford County. Both of these men loved this Nation and served bravely in Iraq in the war on terrorism. Their untimely death in the spring of 2003 came as they defended the freedoms that we cherish.

Because Lieutenant Colonel Watkins and Sergeant Dooley joined their fellow soldiers in removing the Taliban and Saddam Hussein from power, the terrorists no longer have Afghanistan and no longer have Iraq from which they can operate with impunity and with state-sponsored support to plot, plan, and mastermind another event like September 11 in our country.

Because of the bravery of Lieutenant Colonel Watkins, Sergeant Dooley, and the other hundreds of men and women who have given their lives, the United States and much of the world is safer. And we thank you.

□ 2130

BUSH RHETORIC DOES NOT MATCH RECORD

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, it has happened again. The Timken Company of Canton, Ohio, owned by one of

the President's biggest fund-raisers, a place where the President a year ago said his tax cut policies were working, look at the prosperity of this company, the Timken Corporation closed its doors in Canton, Ohio, laying off 1,300 people.

The Bush economic record in Ohio: One out of six manufacturing jobs has disappeared, 177,000 manufacturing jobs in the State are gone, 200 jobs a day have been lost since President Bush took office.

The Timken Company sent out a press release 3 weeks ago, bragging about its quarterly sales of $1.1 billion, saying it set some kind of record.

The Bush administration economic record over the last 4 years has been to ship jobs overseas, give tax cuts to large corporations; those large corporations have huge profits, then they lay off American workers. It is the same old story.

This economic policy is not working for my State of Ohio. It is not working for manufacturing. It is not working for working Americans. It is not working for our communities.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FEENEY). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

(Mr. HOYER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

MR. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

TIME FOR ACTION ON PRESCRIPTION DRUG IMPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, it is time for Congress to act on legislation to permit prescription drug importation.

Drug companies are the most profitable businesses in America. The drug companies earn profit margins of over 18 percent. That is three times the average of Fortune 500 firms.

These companies are huge multinational juggernauts. In 2001, the 10 biggest U.S. drug companies reported profits of $37 billion. That is more than the Federal Government spends each year on VA health care. It is more than the entire U.S. Department of Housing and Urban Development budget. It is a full billion dollars more than the combined gross domestic product of Lebanon, Panama, and Yemen. That is not total revenue of the drug company; that is its profits.

So how is it the drug companies are able to do so well, even as other manufacturers and companies around this country are having trouble in many cases with staying afloat? By gouging American consumers, that is how.

Drug companies routinely charge American consumers, two, three, four, five, sometimes even ten times what they charge their customers in Canada and other wealthy countries. Medicine sold in Canada is the same safe, effective medicine, same manufacturer, same packaging, same drug, the same ones that our constituents buy at a neighborhood grocery store or drugstore in Elyria, Ohio, but it costs a fraction of the price.

Price data collected last fall by the Alliance for Retired Americans tells the story. Drugmakers charged Americans $89 for Celebrex, an arthritis medicine; Canadians paid $44. The drug industry charged Americans $108 for the cholesterol medicine Lipitor, which happens to be made in Ireland; Canadians paid $61 for Lipitor. Drug companies charged American women $246 for Tamoxifen, the breast cancer drug; Canadian women paid $44.

Our constituents paid 500 percent more for cancer medicine than Canadians paid, same manufacturer, same drug, same dosage. In fact, U.S. taxpayers helped develop that drug. But because the U.S. Government allows drug companies to charge any price they want for essential medicine, that is why these drugs cost so much more.

The best response would be for the American Government to stand up to the drug industry, but Republican leadership and President Bush have already rejected that common-sense policy. In fact, the Medicare prescription drug bill, written by the drug companies for the drug companies, and enacted last year and signed by the President, explicitly prohibits the Federal Government from negotiating on behalf of American consumers for fair prices for prescription drugs.

Think about that. Forty million Medicare beneficiaries ought to be able to get a get a great price because of the number of people that Medicare represents. Yet the Congress has prohibited negotiated prices. Since this Congress, the Republican leadership, will not allow the government to stand up to the drug industry, we should at least allow our constituents to benefit from the tough stance taken by other nations.

A bipartisan majority in this House on this, both sides of the aisle, solidly supported legislation last year that would give our constituents access to prescription drugs imported from Canada and other nations. That vote was a declaration of independence from the powerful drug lobby and a real step forward for our constituents.

Two big drugstore chains in America have announced their support for importation of safe, effective drugs and affordable medicine. They see the tough choices that their customers in this country make every day. We should heed that call. Four States have already established drug importation Web sites, five local governments have set up importation programs, 20 additional States are considering importation as a way to respond to their constituents.

These public officials, Democrats and Republicans alike, are doing what they can because Republican leadership in this body and President Bush have failed to act, and continue to do the bidding of the drug companies.

Seniors in Ohio and throughout the country continue to go to Canada for a better deal on prescription drugs. They know a full deck of discount cards does not offer a discount comparable to the fair prices charged to our neighbor country to the north. Their continued grass-roots fight against the drug companies is a cry for help.

We should answer that call. This Congress should send to the President's desk a responsible, bipartisan drug importation bill before the Fourth of July recess. The President should wean himself of drug company money and influence and sign that bill. America needs a declaration of independence from the drug companies. Let us get it to the President's desk before July 4.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

(Mr. HENSARLING addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

(Mr. BLUMENAUER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

(Mr. PEARCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FEENEY) is recognized for 5 minutes.

(Mr. FEENEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I am here to express my opposition to H.R. 4200, the fiscal year 2005 Defense Authorization Act. Among other things, the bill would approve an additional $25 billion for the war in Iraq. For those that may have forgotten, let me refresh your memory.

Last November, that was a mere 6 months ago, Congress approved $87 billion to fund military operations and reconstruction efforts in Iraq and Afghanistan. At that time, President Bush misleadingly declared that no additional funds would be needed until the year 2005. Since then, funds allocated for Iraq appear to have been misused, misspent and in some cases downright stolen by the companies assigned the tasks of rebuilding Iraq's infrastructure.

It would be totally irresponsible to provide another blank check to this administration, which still has not accounted for how the last $87 billion was spent. But the last $87 billion and the $78 billion before that is just the tip of the iceberg.

The cost of maintaining our forces in Iraq alone costs the United States taxpayers $5 billion a month, and that does not take into consideration the vast reconstruction costs, and more importantly, the tremendous human costs that we are occurring every single day. That is $60 billion a year just to continue our military operations in that one country, assuming nothing goes wrong.

And as events in the streets of Fallujah and the abuses within the walls of the Abu Ghraib Prison have shown with this administration in charge, inevitably there will be more things going wrong. In fact, some estimates suggest that the cost of the war in Iraq could approach a total of $400 billion by 2006.

There are programs in H.R. 4200 that I support, including extending coverage under TRICARE, the military's health care system, to the National Guard and the Reserve forces and their families who lack health insurance.

H.R. 4200 also provides an across-the-board pay increase for military personnel, and it authorizes permanent increases to the imminent danger pay and the family separation allowance.

And finally, H.R. 4200 eliminates the widow's tax which veterans' spouses currently face by improving the existing survivor benefit plan.

I support all of these measures, and I have been working for their passage because each is an important step in keeping our promise to our Nation's servicemen and women, those who have sacrificed so much for their country. But to my great disappointment, in order to support these important measures for our troops and veterans, I would also have to support the development of new nuclear weapons and a gigantic missile defense system, which has never been proven effective, not to mention another gigantic $25 billion spending bill for the war in Iraq.

An open check for the President, despite the fact that, one, we have no idea why we are in Iraq in the first place; two, we have no idea how our money is being spent; and three, we have no exit strategy.

There has to be a better way, Mr. Speaker, because the Bush doctrine of spending without accountability has been tried in Iraq and it is failing.

But there is another way. I have introduced legislation to create a SMART security platform for the 21st century. SMART stands for sensible, multilateral American response to terrorism.

Instead of spending billions on new bunker-buster nuclear weapons and the President's beloved missile defense system, which would not provide an effective defense against a full frontal missile attack, SMART security calls for stronger and smarter investments at home, on homeland security and first responders, and abroad on peacekeeping and conflict-prevention programs.

SMART security defends America by relying on the very best of America: our commitment to peace and freedom, our compassion for the people of the world, and our capacity for multilateral leadership.

Let us be smart, let us be smart about our future. SMART security is tough, SMART security is pragmatic and patriotic, and SMART security will keep America safe.

□ 2145

The SPEAKER pro tempore (Mr. FEENEY). Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

(Mr. SOUDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. GINGREY. Mr. Speaker, I ask to claim the time of the gentleman from Indiana (Mr. SOUDER).

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

There was no objection.

HAPPY 102ND BIRTHDAY TO MRS. MAE BELL CARTER OF WOODLAND, GEORGIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise today to pay tribute to a great Georgian who has lived to witness almost half our State's history. Born in 1902, Mrs. Mae Bell Carter of Woodland, Georgia, will turn 102 years young on May 29.

Mrs. Carter was born in Woodland, married in Woodland, and raised her family in Woodland. Needless to say, she is a fixture in that community and the mother of the mayor and a member of the city council. Mrs. Carter obviously instilled in her children the heart for public service that she has personified for her entire life.

Mr. Speaker, she was long a member of the ''Mothers Board'' that performed missionary work for the people of Talbot County, nursing the sick and bringing food to the less fortunate. Perhaps her enthusiasm for mission work springs from her long affiliation with the aptly named Friendship Baptist Church in Woodland where she has been a member for at least 90 years.

Her family says in all her years she has been as fashionable as she has been charitable. She is always finely attired and actually walked every day to the post office wearing high-heel shoes. I can attest to this, Mr. Speaker. I met with her recently during a Medicare prescription drug card town hall meeting down in Talbot County. What a fine, distinguished lady she is and a credit to my district, to the State of Georgia, and to the Nation.

Mr. Speaker, I ask my fellow House Members on behalf of the people of Talbot County and Georgia's 11th Congressional District, the district that I am so privileged to represent in west Georgia, to join me tonight in wishing Mrs. Mae Bell Carter a happy and a blessed 102nd birthday.

ARMENIA-AZERBAIJAN MILITARY DISPARITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise tonight to address recent reports that I believe signal a conflict in Azeri President Ilham Aliyev's interest in promoting a peaceful resolution to the Nagorno-Karabagh conflict between Armenia and Azerbaijan.

I am particularly troubled by reports from the BBC last week that President Aliyev said that, while he would continue to try to resolve the Nagorno-Karabagh conflict by peaceful means, the Azeri army is able at any moment to free what he called ''our territory.'' The article continues that President Aliyev stated, ''We have every right to do that, to restore our territorial integrity.''

Such statements, Mr. Speaker, are unsettling and send a message to Armenia as well as to all those involved in working towards a peaceful resolution to the conflict that Azerbaijan is prepared to undertake a military approach to addressing the conflict should recommendations by the Minsk Group not agree with Azerbaijan's position. In fact, such statements, I believe, Mr. Speaker, send the wrong message to the Minsk Group and undermine ongoing efforts regarding stabilization of the South Caucasus region.

Ten years after a mutually signed cease-fire in the region and 3 years after President Kocharian and former President Aliyev came together at Key West, current Azeri President Aliyev has warned that if no concrete issues remain on the agenda regarding a peaceful resolution to Nagorno-Karabagh, then it is ''not right to continue and imitate negotiations.'' President Aliyev's actions and statements do not signal a willingness to negotiate and, in fact, I think they illustrate the opposite. If there is any chance that the parties can move in the direction of a peaceful resolution, President Aliyev must show that he is willing to consider options developed by the Minsk Group without threatening military actions.

In this regard, I would like to highlight from the BBC article that Mr. Aliyev added that the Azeri government's expenditure on Azerbaijan's military was increasing each year and ''it will keep increasing in the future.'' I am discouraged by this, Mr. Speaker, and I would like to address this issue in light of the U.S.'s role in providing military assistance in the region.

I strongly believe we must do everything in our power here in Congress to signal that we will not support the use of military force to address this conflict. Specifically, I call upon Congress and congressional appropriators to restore the military aid parity between Armenia and Azerbaijan.

Earlier this year, President Bush's budget proposed including unequal military aid spending to Armenia and Azerbaijan. This request was contrary to a policy agreement between the Congress and the administration that there would be military parity between the two countries. While the administration believes that the unequal funding will not destroy the balance between Azerbaijan and Armenia, I point to President Aliyev's recent statements and question the Bush administration's recent assurances to Congress before the other Chamber's Foreign Relations Committee.

I would like to point out that waiver language included in section 907 of the Freedom Support Act specifically states that any assistance to Azerbaijan should not be used to undermine or hamper the Karabakh peace process or be used for offensive purposes against Armenia or the Armenian communities in the South Caucasus. President Aliyev's comments regarding current and future increases in Azerbaijan's military funding do not put me at ease that funding from the U.S. either directly or indirectly will not be used to unleash a military campaign against the people of Nagorno-Karabagh.

Amid rising tension and animosity in the region, it is more important today than ever for the United States to be sure that no signal is sent suggesting that one side is being provided a military advantage over the other. Our strength in fostering a diplomatic and peaceful solution is our balanced approach to and for each nation of the South Caucasus. At this time the U.S. should not be providing resources to Azerbaijan that can in any measure be turned into military efforts against Armenia to reclaim Nagorno-Karabagh.

Parity in this regard will help to restore a sense of stability in the region and hopefully add to the U.S.'s evenhandedness in its presence and support for the establishment of a peaceful resolution to the Nagorno-Karabagh conflict.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

(Mr. MCCOTTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

(Mr. PENCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

(Mr. DREIER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

(Ms. MILLENDER-MCDONALD addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

THE WAR ON TERRORISM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Mr. Speaker, I am glad to be joined by my colleague from Georgia this evening. What we would like to do is to talk a little bit about the war on terrorism, the situation in Iraq, the situation in Afghanistan. We want to start off by providing an answer to some of our colleagues from the other side of the aisle who have been asking the question, In 2004, are we better off than we were 4 years ago? In many ways as we have talked about this issue, we need to recognize and put it in the context of September 11, 2001. For the first time, America has a real and serious response to the war on terrorism. During the 1990s, were we better off in the 1990s as we were attacked in the World Trade Centers in the early 1990s? As our embassies were attacked in Africa? As our barracks were attacked in Saudi Arabia? And as the USS *Cole* was attacked in Yemen, but America did not respond? Was that a good position for us to be in? We found out the cost of neglecting the threat, the emerging threat of global terrorism on September 11. We found out what it would cost us not to have responded during the 1990s.

As this threat emerged, an administration, perhaps even we in Congress, said, this is not a threat that needs a serious focus. We now have an administration, a President, and a Congress that were united in our response to September 11. We said we do face a real threat. We face a global war on terrorism. We face a global war on terrorism that had been emerging throughout the 1990s, but had never been responded to. Now is the time to respond because it is a real threat and it is a threat that we need to take seriously and it is a threat that we need to respond to by taking the war to the terrorists.

The question may not be, Is America better off? We know that America is probably safer than what we were on September 11 or on September 12, 2001. We know that America is much safer than what we were before September 11. We also recognize that we may be safer, but we are still not safe. But there are other questions that can be asked: Are the Afghan people better off today than they were 4 years ago? Are the people of Iraq better off than they were 4 years ago? Are the people in Libya facing a brighter future because of the decisions that have been made over the last few months than they were 4 years ago?

Tonight I do not claim that we have solved all of these problems or all of these issues. I think that we recognize that there is still a tremendous amount of work to do in each of these areas. But Afghanistan does have a new government. Afghanistan does have a new constitution. The Taliban is gone from power. They still exist in various forms of resistance. Al Qaeda no longer has a safe haven in Afghanistan to plan additional attacks against the United States and the rest of the free world. They are still planning those attacks, but the first thing that they have to plan each and every day is how they are going to get through that day. They no longer have the luxury of believing, and during the 1990s knowing, that America would not strike them, even though we knew where they were and we maybe had some idea of their overall intentions and that they had declared war on the United States that we would leave them alone.

So Afghanistan is freer and better off than they were. Saddam Hussein is no longer in power. As ugly as the abuses have been in the prisons by American troops, by a limited number of American troops, we cannot lose the perspective that probably over 300,000 Iraqis were driven to their graves through the brutality of the regime of Saddam Hussein.

Libya is now in the process of disarming. A couple of months ago, I had the opportunity to meet with Muammar Qaddafi in Libya. We tried to understand exactly why Qaddafi had made this switch in strategy, why from being on a list of terrorist states he had evolved to a position where now he was disclaiming any terrorist intent, working with the United States and working with the European Union to disarm, but not only to disarm from weapons of mass destruction but to disclose to the United States and others the capabilities that he had in his nuclear weapons program, which is a step forward, to also not only describe what his program was and to give us many of the materials but also to give us an understanding as to how he had acquired those materials and what was the network of suppliers that facilitated the development of his nuclear weapons program.

As we better understand that network, we also get a clearer picture of what maybe exists today in Iran, what may exist in North Korea as they were on the market shopping for nuclear weapons programs.

So are these three countries and the people in these countries better off? The 50 million people alone in Afghanistan and Iraq that have been liberated from terrorist regimes, are they better off than what they were 4 years ago? Are the people of Libya better off in the new course that their leader has embarked on? I think the answer is very, very clear. The answer is absolutely yes. Is America safer because of a change in regimes in Afghanistan, Libya, and Iraq? I think the answer is clear. It is an absolute yes.

Again I am not saying that the work is done. As we see in the media, as we get in our briefings each and every day, there is still a tremendous amount of work that needs to be done. But we cannot forget the unity that this Nation had after September 11, a unity that said we need to stare terrorism in its face and we need to stare it down and we need to take the battle to the terrorists. That was the message that came from the White House. But that was also the message that was embraced by this Congress and supported by this Congress.

□ 2200

What we need to recognize is that going to war and rebuilding or building representative government or new governments in each of these countries is not an easy process. We maybe had a quick major conflict, a McDonald's war, but when we get done with it, we recognize that building a new Iraq and a new Afghanistan is going to take a tremendous amount of time. And that is the process that we are embarking on today.

But take a look at what has happened. It is progress. Afghanistan is free. Libya has disarmed. Saddam Hussein is no longer in power. Iraq is becoming a free country, making the heart of the Middle East more stable and, therefore, making America more secure. We are more secure because we now have a Department of Homeland Security. Is all the work in the Department of Homeland Security complete? Absolutely not. We do not create that type of an agency and give them that type of a mission and believe in 12 to 18 months that all of that work is going to be completed.

But we now have a Department of Homeland Security that is focused on making sure that our airports are more secure, making sure that our ports are more secure, making sure that our local communities are more secure, because we are developing an infrastructure, a database that allows information-sharing across all levels of government so that we will be more prepared to identify the threats that we face and hopefully to respond to those threats in such a way that a threat never becomes a successful attack on America.

All of our border activities have been consolidated into the Department of Homeland Security, a single agency, doing away with a multitude of different organizations that allowed in some cases the opportunities for some of the 9/11 hijackers to slip through our borders, to rent apartments, to find employment and to train in flight schools, only to have their visas approved by INS after they carried out the attacks on the Twin Towers.

So we are facing the issues that have been identified and moving forward, moving forward in a very difficult process because America is still a free country. And that is exactly what we want to maintain. We want to maintain a free society, but we want to maintain a society that is free and safe. Those are the two paths that we are continuing to try to balance.

I do not know if the gentleman from Georgia (Mr. GINGREY) has any comments. There are lots of things we want to talk about, but I think this is kind of set in context to answer that first question: Are we better off? Absolutely. We recognize the threat that this Nation faces. We are addressing that threat, and we are working and focusing on that real threat each and every day. We do not claim absolute security and safety, but we do now recognize the threat and continue to work to try to make sure that we will not have another terrorist attack in the United States.

I yield to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I certainly thank the gentleman from Michigan (Mr. HOEKSTRA) for organizing this Special Order tonight.

Mr. Speaker, we are here to pay tribute really to the courage, the commitment, and the endurance of our service men and women. And specifically I would like to spend a few moments kind of reflecting on the tremendous job that our troops have been doing in Iraq.

We must never forget that our American forces are primarily responsible for one of the most complex and awesome military successes in history. And the overwhelming majority of our troops did it with compassion, with care for the dignity and the basic human rights of the Iraqi people.

Remember that our military, our military, liberated 25 million Iraqi citizens in just over 3 short weeks. And when we include Afghanistan, American troops have now liberated over 50 million people from oppressive regimes.

Yet despite this military success story, Mr. Speaker, I cannot think of another time in which so much precious time and treasure have been invested in the reconstruction of another country. An international coalition led by America is now building new, modern power plants, a totally new phone system, and nearly 2,500 schools.

Mr. Speaker, the gentleman from Michigan I know has been to Iraq several times, has been to Afghanistan, been to Libya. He has seen what I saw

the one opportunity that I had to visit Iraq just before Christmas of 2003, and at that time Fallujah was a little more peaceful than it is today. And I remember General Swanick took us on a patrol. We were in a situation where things were relatively stable. We obviously could not do that today, but we went in those Humvees with those soldiers of the 101st, and we visited a school, which by our standards, Mr. Speaker, one probably would not want their child in a building that has no air conditioning and no heat. It is lighted, but there is not a nice playground or anything like that. But, by golly, there is a chalkboard, and those kids were there and not only little male children but of course for the first time probably in 30 years little precious female children were able to get an education. They were sitting there. They were bright eyed, and they were hopeful. And that is what we were doing in Fallujah before Sadr and all of these terrorist thugs started killing everybody just wantonly and the mass destruction that is going on there right now.

But, I mean, this is the kind of thing that we were doing. More than 8.7 million textbooks have been printed and distributed throughout Iraq; 32,000 secondary school teachers and administrative staff have been trained to teach Iraqi children; 240 hospitals; 1,200 health clinics. Health care spending in Iraq has increased 30 times over its prewar. Five million children have been immunized for measles, mumps, and rubella. That is because of the liberation and the compassion that this country has brought to Iraq.

And I know the gentleman from Michigan has seen so much of that and agrees with me that the good stories are not being told. All of us are appalled with the activity of a miscreant few in that Abu Ghraib prison there in Baghdad and what they did is unforgivable. There is no excuse for that, and they will pay the price.

But it is a shame that we have got 165,000 brave men and women serving in Iraq and Afghanistan and 25,000 coalition forces that are laying it on the line and indeed sometimes paying the ultimate sacrifice to do the right thing, and that is the message that of course does not get the soundbites on this 24-hour news that we have to literally put up with every day in this country. But we are here tonight, and I am just so pleased to have an opportunity. I thank the gentleman from Michigan for allowing me to join with him and talk about the good things that we are doing, and at the end of the day we will succeed in this mission.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for his comments.

I want to again talk a little bit about the war that we are in. The Under Secretary of Defense for Intelligence, Steve Cambone, gave a speech back in January that I think kind of describes the challenges that we face as a Nation. And as we talk about the progress that we make in Iraq, as we talk about the progress that we make in Afghanistan, we cannot lose context of the total situation that we face as a Nation. And here is how the Under Secretary described it: ''We are a Nation at war. We do not know how long it will last, but it is unlikely to be short. We cannot know where or against whom all of its battles will be fought. There are multiple fronts in this war, and there is no single theatre of operations. We do know that we are all at risk, at home and abroad, civilians and military alike. We do know that battles and campaigns will both be conventional and unconventional in their conduct. Some of those battles and campaigns will be fought in the open, and others will be fought in secret where our victories will be known to only a few.''

Going on in his speech he says: ''We are facing a turbulent and volatile world populated by a number of highly adaptive state and nonstate actors. Some of these are weighing whether, to what extent, or how they might oppose the interests of the United States and its friends. Others such as the terrorist organizations responsible for attacks on the United States, Turkey, Indonesia, Morocco, Saudi Arabia, Israel, Kenya, the Philippines, Afghanistan, Pakistan, Iraq, and other places have committed themselves to war.''

I think this gives us some idea as to the full context of the threat that we face and the number of different places that we face that threat.

He also goes on to say: ''It is impossible to predict with confidence what nation or entity will pose a threat in 5, 10, or 20 years to the United States or to our friends and allies.''

His speech goes on: ''But not everything that unfolds in the coming years should be a surprise.'' Here is what we can expect: ''We can expect that an adversary will continuously search for effective means to attack our people, our economy, military and political power, and the people in power of our friends and allies. We can also expect that an adversary will have access to a range of modern technologies and will be prepared to use them to magnify the destructiveness of their attacks, using truck bombs and improvised explosives, cyberintrusions to attack the computer systems upon which we rely, radio transmitters to jam our space assets, small laboratories to develop new and biological or genetically altered agents, and chemical and nuclear technology materials delivered by missile, plane, boat, or backpack to poison our environment and destroy human lives.''

Here is what candidate Bush said in 1999, perhaps better understanding that threat than the administration at that point: ''Now our President reminded his audience of an earlier time when a free people confronted what he called 'rapid change and momentous choices.' That time was the 1930s. Nazi Germany was rearming, and the British Government was reluctant to take forceful steps to stave off war. To give voice to his own concerns, candidate Bush quoted Winston Churchill, who repeatedly called upon his countrymen to respond to the gathering storm.''

Here is what candidate Bush said and quoted from Winston Churchill: '' 'The era of procrastination, of half-measures, of soothing and baffling expedients, of delays, is coming to a close,' Churchill said. 'In its place we are entering a period of consequences.' That period of consequences arrived not only for the military but for those who practiced intelligence just 2 years after the President's Citadel speech on September 11, 2001. Like our colleagues in the military forces, we will be judged by our successors on our response to this period of consequences. We face few substantial impediments to transforming intelligence. We are led by individuals at the Department of Defense and agencies who embrace the need for and who likewise are committed to this effort. Congress has provided the resources.''

What we see is a true response. ''There is an urgency to transform intelligence, defining and achieving operational goals.'' But what we will not see and what we have not seen from this President, what we perhaps saw during the 1990s and what the folks in Great Britain saw in the 1930s, what they saw and what we perhaps saw, the British Government, the U.S. Government in the 1990s was reluctant to take forceful steps to stave off war. Again: ''The era of procrastination, of half measures, of soothing and baffling expedients, of delays, is coming to a close. In its place we are entering a period of consequences.''

That was the end of the quote from Winston Churchill. It was the end of an era where we had delays and baffling expediency.

What this President has provided us is an era of leadership, strategically. There can be differences on the tactics. We have done things wrong. Mistakes have been made. It is always great in hindsight to identify a mistake, 20/20 vision, saying we should have done that 2 years ago or we should have done that 3 months ago, and we are second guessing our military commanders in the field, but what we do have is we have a clear sense of vision and commitment to move forward and to get this done. That is what this President has provided. Strategically we are headed in the right direction. Tactically we have got some work to do.

I yield to the gentleman from Georgia.

□ 2015

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding, and I want to thank him, too, I really appreciate the historical perspective that he brings to this debate, because we learn from our history. God help us if we do not learn from our history. We repeat the same mistakes.

But the bottom line here is, as the gentleman from Michigan was explaining at the top of the hour, we had 10 years, we had a lot of time, where the gentleman mentioned the USS *Cole*, the Marine barracks in Lebanon, the embassies, and it goes on and on. What did we do? It was a series of drawing a line in the sand, and let me suggest not a very deep one, and a series of double-dog-dare-you.

And what happened? The Twin Towers attack on September 11, 2001. I want to remind, Mr. Speaker, all of my colleagues, that that indeed was not the first attack. It happened in 1993. And what did we do? It is just like, you bomb an aspirin factory?

The gentleman from Michigan put it in such great perspective. We are hearing from the other side, and you are going to hear it for the next 6 months of this presidential election year, we know it, we have heard it, we have heard all about campaign rhetoric, are you better off than you were 4 years ago? They are trying to borrow a phrase from a great president, President Reagan. And what a wonderful job he did, probably one of the greatest presidents we ever had.

I will tell you, like the gentleman from Michigan said, we are better off than we were 4 years ago. But it is not so much important are we better off, but the world is better off. The world is a better place. It is kind of like borrowing from Charles Dickens in the Tale of Two Cities, on that first page, the first paragraph, when he said, It is the worst of times, it is the best of times.

Well, in many ways it is the worst of times. It is always a bad time, a very bad time when we are losing men and women who are paying the ultimate sacrifice defending this country. Even though we agree with Thomas Jefferson when he said that every now and then the Tree of Liberty has to be nourished again by the blood of patriots.

That is what is going on today. Those are the worst of times, but they are the best of times, because we, by the grace of God, have a Commander-in-Chief, a leader of this country, that is a man of faith, a God-fearing President with resolute determination, and he will lead this country out of the morass that we find ourselves in, because it is the right thing to do.

I am so appreciative for having an opportunity to share a little time with the gentleman from Michigan, because the story needs to be told.

Mr. HOEKSTRA. Reclaiming my time, we talk about are we better off. Think about it. It is 1995–1996. We have been attacked a few different times in a few different places around the globe. We know that the organization that is attacking us is a terrorist organization. It is not a nation state, so it does not have a defined boundary. It does not have buildings that you could go and occupy or you could declare war on.

So, what is the response that we have in the intelligence community in 1995–1996? We may have talked about this the last time we had an opportunity to do a special order. It is the called the Deutch Doctrine. Deutch was the head of the CIA during that time.

Are we better off? Well, the response to terrorist organizations, to the uncertainty in Iraq, Saddam was in there. A few years later he kicked out the UN inspectors and continued to flaunt the different resolutions that came out of the UN.

What was the response in the intelligence community to what was a growing and emerging threat? It was the Deutch Doctrine, which says, well, if you are in the field in the CIA and you are thinking about recruiting spies, if they have any human rights violations or they have a criminal record, they really need to go through a special screening process. And, by the way, we do not really want to do business with those kinds of folks. So if you want a career-ending move, send us a bunch of folks that have questionable backgrounds and tell us you would like to recruit them to be spies. In effect, we closed down our human intelligence.

We took a look at what was going on in Iraq prior to the war and what was going on there the last few years. We have excellent imagery from space. We can see buildings and we can see trucks and people moving around, but we do not know what is actually in the building. We can guess. We do not know exactly what is on the minds of the people. Are they stockpiling and producing weapons of mass destruction, or have they decided that they will put the facilities in place that once the UN is out? Do they think, we can produce the stuff in massive quantities in a very short period of time, a just-in-time inventory? We could not understand their strategy, because we went blind on the human intelligence side.

We went worse than that. We went through a process in the CIA that scrubbed the folks that were working for the CIA. What does that mean? Not only were we not going to recruit any more of these folks, but we also said, let us go through and see if we have any kind of these people working for us, and, if we do have these people working for us, it is time to cut them off.

My colleague and I, we know enough about al Qaeda, we know about the other kinds of terrorist organizations, we know enough about Saddam Hussein. The question is, what do you think the profile is? How many of the Eagle Scouts that we said we would only recruit to work for the CIA were in the tent with bin Laden or in one of the palaces with Saddam?

Mr. GINGREY. That is exactly right. As the gentleman said, back in the previous administration, they scrubbed it to the extent that if you had ever had a history of spitting on the sidewalk or jaywalking, you were ineligible to work for the CIA or work in our intelligence.

You have got to fight fire with fire. These are bad guys. When you think of somebody in retaliation, as they might say, or retribution, because we had a few miscreants mistreating, horribly mistreating, and we do not condone that, in one cell block in Abu Ghraib prison in Baghdad, so, tit-for-tat, you chop off the head of a 26-year-old young man who is in Baghdad, who has a history of being compassionate and wanting to help people and do the right thing and maybe restore some communication networks in Iraq. That is what we are dealing with.

So, it is absolutely right. We fell asleep at the switch. But not in this administration. Not on this watch and this president. He immediately responded after 9/11 and told us, and reminded us, this war against terrorism, this is not going to end with the capture of Osama bin Laden. This does not end because we have found Saddam Hussein. He told us 2½ years ago that this war on terrorism is a global war, and it is something that is going to be with us for a long time.

These oceans no longer protect us. It is easy for people to forget.

I want to make one other point, if the gentleman from Michigan will allow me a little bit more time. You know, somebody told me today, I did not realize this, but I went to a movie recently, the premier of ''Ike,'' starring Tom Selleck, a great movie about the lead-up to Normandy, Operation Overlord, and the agony, of course, they went through in trying to time that mission and train the troops on the coast of England.

I did not realize that they actually practiced the invasion of Normandy there on the beaches in England. Of course, a lot of live fire was used practicing that invasion to make sure they got it just right, and over 700 of our soldiers were killed practicing for Normandy, for D-Day, because they were using live fire. There were some accidents that occurred, but we lost over 700 soldiers in the preparation for Normandy.

What if the our Greatest Generation, what if we were in a digital world back then and all that news got out to the 24 hour news network, and, oh my God, what would have happened? Maybe D-Day never would have occurred.

I realize, of course, we have lost over 700 by comparison, maybe 800 now in Iraq and Afghanistan, but we need to put it in perspective. If you ask the Greatest Generation, what should be our exit strategy in Iraq, they would quickly tell you the exit strategy is to win; to win. You do not pull your team off in the fourth quarter because the going gets tough. That is when the tough get going. That is with what made that generation the Greatest Generation.

I think today we may have an even greater generation with these young men and women, these 135,000, 140,000

active component, Guard and Reserve over there laying it on the line for us, spilling their blood to nourish that Tree of Liberty. It makes me very proud of them, and humble as a Member of Congress.

But we have got to stay the course. We have got to continue to, as the gentleman from Michigan has said, to let the American people understand, to know, to put this in the right perspective.

Mr. HOEKSTRA. Reclaiming my time, one of the things we wanted to do tonight, we wanted to talk a little bit about the young men and women who are serving in Iraq. We have a list of many who have received the Distinguished Service Cross or the Bronze Star and those types of things. Maybe we will read some of those citations.

But today in USA Today there was a story entitled ''A Marine sees what defeatists do not.'' This is a young man who is now serving his third deployment with the 1st Marine Division in the Middle East, Ben Connable.

Here is one of the things he talked about when he first went in 1991. ''Waiting for war in the Saudi Arabian desert as a young corporal in 1991, I recall reading news clippings portending massive tank battles, fiery death from Saddam Hussein's ''flame trenches'' and bitter defeat at the hands of the fourth largest army in the world. My platoon was told to expect 75 percent casualties. Being Marines and, therefore, naturally cocky, we still felt pretty good about our abilities.

''The panicky predictions failed to come true. The flame trenches sputtered. Nobody from my platoon died. Strength, ingenuity and willpower won the day. Crushing the fourth largest army in the world in four days seemed to crush the doubts back home.

''Twelve years passed, during which time America was faced with frustrating actions in Somalia and the Balkans. Doubt had begun to creep back into public debate.

''In the spring of last year, I was a Marine captain, back with the division for Operation Iraqi Freedom. As I waited for war in the desert just 100 miles to the north from our stepping-off point in 1991, I was again subjected to the panicky analysis of talking heads. There weren't enough troops to do the job, the oil fields would be destroyed, we could not fight in urban terrain, our offensive would grind to a halt, and we should expect more than 10,000 casualties.

''Remembering my experience in Desert Storm, I took these assessments with a grain of salt. As a staff officer in the division command post, I was able to follow the larger battle as we moved forwards. I knew that our tempo was keeping the enemy on his heels and that our plan would lead us to victory.

''But war is never clean and simple. Mourning our losses quietly, the Marines drove to Baghdad, then to Tikrit, liberating the Iraqi people while losing fewer men than were lost in Desert Storm.''

Then he talks about on March 30 he was reading a U.S. newspaper that was in one of the packages that he had received. The stories in the paper: ''Horror in Nassariyah, faltering supply lines and demonstrations in Cairo. The mood of the paper was impenetrably gloomy, and predictions of disaster abounded. The offensive was stalled; everyone was running out of supplies; we would be forced to withdraw.

''The Arab world was about to ignite into a fireball of rage, and the Middle East was on the verge of collapse. If I read those stories on March 30, I would have had a tough time either restraining my laughter or, conversely, falling into a funk. I was concerned about the bizarre kaleidoscope image of Iraq presented to the American people by writers viewing the world through a soda straw,'' not taking a look at the total picture.

He now says, ''As I write this, the supply lines are open, there is plenty of ammunition and food, the Sunni Triangle is back to status quo, and Sadr is marginalized in Najaf. Once again, dire predictions of failure and disaster have been dismissed by America's willpower and military professionalism.

''War is inherently ugly and dramatic. I do not blame reporters for focusing on the burning vehicles, the mutilated bodies or the personal tragedies. These things sell news and remind us of the sober reality of our commitment to the Iraqi people. The actions of our armed forces are rightfully subject to scrutiny.

''As a professional, I have the luxury of putting politics aside and focusing on the task at hand. Protecting people from terrorists and criminals while building schools and lasting friendships is a good mission, no matter what brush it is tarred with.''

□ 2230

Think about it. This is what one of our soldiers said there. And I have heard this story over and over and over, if you talk to our troops when they are coming back, whether you are in your district or they are in the airport, and you go up to them and say, Thank you.

Here is why they are, I think, overwhelmingly positive because this is what they see their mission as, and they know that when they are doing this mission, they are also doing a mission which protects you and I and our constituents.

Here is how he described it: ''Protecting people from terrorists and criminals while building schools and lasting friendships is a good mission no matter what brush it is tarred with. Nothing any talking head will say can deter me or my fellow Marines from caring about the people of Iraq or take away from the sacrifices of our comrades. Fear in the face of adversity is human nature, and many people who take counsel with their fears speak today. We are not deaf to their cries. Neither do we take heed.''

His closing two sentences are absolutely awesome. This is one of our young men who is over there with the Iraq people each and every day. He is not talking about in Iraq where the people, as we sometimes perceive in the media, where all the Iraqis and all the people of Islam, hate Americans. Here is what he says, and think about this; this is a soldier who is representing the troops that are putting their lives on the line each and every day. ''All we ask is that Americans stand by us by supporting not just the troops, but also the mission.'' And then I guess as any Marine would say, Here is how he closes. ''We will take care of the rest.''

Mr. GINGREY. The gentleman is wearing a poppy in his lapel as most of us did today. He continues to wear his, and I am proud of him for that.

Memorial Day is coming up pretty soon, and we all know the symbol of the poppy. And we passed a resolution today honoring those who have served. Our country is almost 230 years old. We have had a lot of conflicts, and that poppy represents our tribute to the fallen many in multiple conflicts.

I cannot help but think about that poem at a time like this that was written by a physician, a surgeon, a Canadian, Doc McCrae, when his best friend was killed in Flanders, Belgium, and buried on their hallowed ground where those poppies grow. It was inspiration to Dr. McCrae to write that poem that we all know so well today.

Mr. Speaker, I am not sure my memory reciting poetry is that good, but I do remember that last stanza is, a short poem, a very short poem. It went something like:

''Take up our quarrel with the foe, to you from failing hands we pass the torch, be yours to hold it high, for if you break faith with us who die, we shall not sleep, though poppies grow in Flanders Field.''

Mr. Speaker, it says it all. It is just what the gentleman from Michigan (Mr. HOEKSTRA) was referring to. We owe such a debt of gratitude to these brave men and women who have paid it, an ultimate sacrifice, to those soldiers at Walter Reed or at Bethesda who are over there trying to rehabilitate and get used to wearing those prostheses because they have lost a limb or maybe multiple limbs.

It is very easy to stand here in the House, and sometimes some of our colleagues are awfully critical in talking again about the exit strategy, and we will probably hear some of that later on tonight from the other side. But I think that is absolutely despicable when these men and women, no matter what the cause, have paid that price.

You go back and you talk about the Civil War, you talk about the Korean conflict, you talk about Vietnam where we lost 58,000 men and some women in that conflict. But let me, if I can, just to kind of put it in perspective to bring some reality to it.

Yeah, we had some thugs running that cell block in Abu Ghraib that no

matter how much training they may have received, there is no excuse, because what they did, it does not take $50,000 worth of military training to teach them that it is wrong. Any Boy Scout or Girl Scout that follows the creed and knows the Scout oath would never, would never do a thing like that.

But let me just talk a little bit about one, just one of the brave many who serve and, in this particular instance, paid the ultimate sacrifice for his country and does it the right way. Listen to this, Mr. Speaker.

''The President of the United States takes pride in presenting the Silver Star posthumously to Gunnery Sergeant Jeffrey E. Bohr, Jr., United States Marine Corps, for service as set forth in the following citation:

''For conspicuous gallantry and intrepidity in action against the enemy while serving as Company Gunnery Sergeant, Company A, 1st Battalion, 5th Marine Regiment, Regimental Combat Team 5, 1st Marine Division, I Marine Expeditionary Force in support of Operation Iraqi Freedom on 10 April 2003. With his company assigned the dangerous mission of seizing a presidential palace in Baghdad and concerned that logistical resupply might be slow in reaching his comrades once they reached the objective, Gunnery Sergeant Bohr selflessly volunteered to move in his two soft-skinned vehicles with the company's main armored convoy. While moving through narrow streets toward the main objective, the convoy took intense small arms and rocket-propelled grenade fire. Throughout this movement, Gunnery Sergeant Bohr delivered accurate, effective fires on the enemy, while encouraging his Marines and supplying critical information to his company commander.

''When the lead vehicles of the convoy reached a dead end and were subjected to enemy fire, Gunnery Sergeant Bohr continued to boldly engage the enemy while calmly maneuvering his Marines to safety. Upon learning of a wounded Marine in a forward vehicle, Gunnery Sergent Bohr immediately coordinated medical treatment and evacuation. Moving to the position of the injured Marine, Gunnery Sergeant Bohr continued to lay down a high volume of suppressive fire, while simultaneously guiding the medical evacuation vehicle, until he was mortally wounded by enemy fire.

''By his bold leadership, wise judgment, and complete dedication to duty, Gunnery Sergeant Bohr reflected great credit upon himself and upheld the highest tradition of the Marine Corps and the United States Naval Service.''

God bless him, Mr. Speaker. We all need to remember people like Gunnery Sergeant Jeffrey Bohr.

Mr. HOEKSTRA. I thank my colleague. We have a long list of folks who have served heroically in Iraq and Afghanistan. In my own district I have had two young men who were killed in Iraq, Steve Hewlett and Todd Robbins.

Again, I want the folks in the district and in the country to recognize that, as was described in USA Today, the work that Steve and Todd were engaged in was protecting people from terrorists and criminals while building schools and lasting friendships, a good mission no matter what brush it is tarred with and no matter how other people try to paint that picture.

Ridding the world of Saddam Hussein was the right thing to do, just as they are protecting people from terrorists in Iraq and Afghanistan and other places. As we eliminate terrorists in Iraq and Afghanistan and other places, we also have to remember that the larger goal and objective of these terrorist organizations is not to terrorize the people of Iraq, not to terrorize the people of Afghanistan. They were already doing that. Their larger goal was to build a network to terrorize the rest of the world.

We felt on September 11 that the terrorists that were based in Afghanistan attacked the United States. The people in Israel and other parts of the Middle East have felt it for years, as Saddam Hussein exported terrorism and paid bounties and cash bonuses to the families of suicide bombers in Israel. There is no doubt that these nations and the leadership in these countries were actively engaged in a global war on terrorism.

For them, it was only a matter of time before they would have taken those resources and expanded that to continue to attack U.S. interests in the Middle East, in Europe and other parts of the world, but also to take that battle to the United States.

When we talk about some of the other things that have happened in Iraq, Jim Hoffman, an individual from my district, served 8 or 9 months in Iraq, served as the Minister of Health; on April 1 the Ministry of Health was turned over to the Iraqis. Today, health care is not being provided by the coalition. Health care is now being provided by Iraqis.

There is a Ministry of Education, teachers' salaries $120 a month; entry level salaries have gone from $5 a month to $66 a month. The Minister of Public Works and Municipalities established programs to rehabilitate 14 water treatment plants.

The Ministry of Science and Technology has taken the lead in establishing the foundation for E-government in Iraq. The Ministry of Culture has revitalized the national symphony orchestra, begun clearing Iraq's library collection.

The Ministry of Agriculture is rehabilitating Iraq's agriculture colleges to carry forward Iraq's long agricultural history of displacement and migration. The Ministry of Water Resources cleared over 17,000 kilometers of irrigation canals.

So there is a tremendous amount of work, and as I talk to our troops that come back, one of the things that frustrates them is that the bad news is what is focused on here. Many of the troops that I talk to say they do not even watch the news anymore when they come home. They do not watch it when they are in Iraq because what they see on the news they say is not reflective of what they see while they are on the ground in Iraq. These are the kinds of things that are not talked about.

I think my colleague and I, we are not denying that the bad things, they are happening, but again I think as Ben Conable pointed out in his article in USA Today, and this is a person that is there in his third tour, he says, the media is looking at Iraq through a straw, not giving the total picture.

Mr. GINGREY. The gentleman is so right. He referred earlier about the McDonald's mentality. Of course, meaning no disrespect to a great company. Just suggesting at that time ''quick fix,'' the fast delivery which that company is so well respected for, that is just not what happens in a situation like we are in in Iraq. And in the 24-hour news networks, of course, it is one sound bite after another.

And as the gentleman said, and I asked when I was in Iraq, I asked some of the soldiers, and unfortunately, when they get a break from those patrols or they are in those Humvees, whether they are up-armored or aftermarket armored or unarmored and they are on those dangerous missions. They probably go 12, 14-hour, 16-hour shifts and they get back to the billet and maybe they have access to relax, knowing that they have to go back out the next day and do it all over again and every day their lives are at risk. So sure they watch television. And it is just unbelievable what they are seeing and the discouragement.

God forbid if they are tuning into some of the coverage of what they hear here in the halls of Congress; you would think that they would get a little bit discouraged. It is funny how sometimes you hear the opposition say, Oh, we support the troops. The troops we love. They are brave men and women. We support the troops, but, hey, you know, the coach sucks.

You just put it in perspective of a high school football team. If the booster club says, We want the boys to go out there. We love them. They are doing a great job, but we do not like the coach. We question all the plays. Pretty soon it gets down to the players and they are not going to win too many games that season and that is what you are seeing here, that sort of thing.

The Iraqi people, they were not as fortunate as we were in this great country called the United States of America. We were born to freedom.

□ 2245

Our Forefathers bought and paid for that, and certainly all of us today never knew anything different. We have freedom of press, freedom of religion, freedom of speech. We take it for granted, unfortunately.

These people, the Iraqi people, the 25 million most of whom are good people.

They have never known that. So it is going to take a long time, Mr. Speaker, for them to understand, to get the feel of that, and yet we hear from the other side, well, Mr. President, what is your exit strategy. Indeed, indeed.

Mr. HOEKSTRA. Mr. Speaker, reclaiming my time, there was an editorial today by William Safire in the New York Times, and it is kind of an interesting thing because what he talks about today, ''In this rush to misjudgment, we can see an example of the 'Four Noes' that have become the defeatists' platform.''

''The first 'no' is no stockpiles of WMD, used to justify the war, were found.'' He goes on to say what we may find is ''the successful concealment of WMD, as well as pre-war shipments thereof to Syria,'' I think what most likely happened is that Saddam moved away from stockpiling weapons of mass destruction to putting in place plans ''for production and missile delivery,'' but that is my own conjecture, ''by Saddam's Special Republican Guard and Fedayeen, as part of his planned guerrilla war.''

This is what Safire goes on to say. ''The present story line of 'Saddam was stupid, fooled by his generals' would then be replaced by 'Saddam was shrewder than we thought.' ''

''Defeatism's second 'no' is no connection was made between Saddam and al Qaeda or any of its terrorist affiliates. This is asserted as revealed truth with great fervor.''

Now we see, going on in the article that he wrote today, ''most damning is the rise to terror's top rank of Abu Musab al-Zarqawi, who escaped Afghanistan to receive medical treatment in Baghdad. He joined Ansar al-Islam, a Qaeda offshoot whose presence in Iraq to murder Kurds at Saddam's behest was noted in this space in the weeks after 9/11. His activity in Iraq was cited by President Bush 6 months before our invasion. Osama's disciple Zarqawi is now thought to be the televised beheading of a captive American.

''The third 'no' is no human-rights high ground can be claimed by us regarding Saddam's torture chambers because we mistreated Iraqi prisoners. This equates sleep deprivation with life deprivation, illegal individual humiliation with official mass murder. We flagellate ourselves for mistreatment by a few of our guards, who will be punished; he delightedly oversaw the shoveling of 300,000 innocent Iraqis into unmarked graves.'' He goes on to say, ''Iraqis know the difference.

''The fourth 'no' is no Arab nature is culturally ready for political freedom and our attempt to impose democracy in Iraq is arrogant Wilsonian idealism.

''In coming years, this will be blasted by revisionist supporters as an ignoble ethnic-racist slur. Iraqis will gain the power, with our help, to put down the terrorists and find their own brand of political equilibrium.

''Will today's defeatists then admit they were wrong?'' Safire goes on to say, he answers that question with, ''That's a fifth 'no.' ''

Once a defeatist always a defeatist. I yield to my colleague.

Mr. GINGREY. Mr. Speaker, I just want to thank the gentleman for bringing this hour to our colleagues in the House on both sides of the aisle and for giving me an opportunity to share with him this time because it is so important.

Mr. Speaker, it is so important for not just American people but for those men and women who are over there in harm's way defending our freedom and liberty and allowing us to sleep well at night and to hopefully bring in peace, democracy, liberty, freedom that we enjoy, that we take for granted, to the people in the Middle East.

I think that we just need to remember that our every waking hour and never forget what they are doing for us and we are doing the right thing, and I thank the gentleman from Michigan for being courageous to bring this time to the American people, but especially to those men and women who maybe, yes, they just came off patrol from Fallujah or the Sunni triangle or hottest of the hot spots in Iraq, and they take that backpack off and that body armor off and they take off their boots and they relax a little bit and they turn on the television and hopefully maybe they are watching what we are saying tonight, and I hope they are because they need to know that people like the gentleman from Michigan, a distinct leader in this 108th Congress, we believe in them and we are going to support them, and we are going to stick with them, and we are going to see them to the end, and we are going to have victory for the world, not just for the United States of America.

Mr. HOEKSTRA. Mr. Speaker, reclaiming my time, I want to just close again by going back to the article that was written by Ben Connable from Ramadi, Iraq. Remember, this is his third deployment, and when we talk about the voices of defeatism, as Safire talks about it in the New York Times today, these guys hear that message.

He says doubt had begun to creep back into the public debate. He sees and hears that now. He saw it when they were talking what about was going on in the Sunni triangle and what really is going on. He knows and admits that war is inherently ugly and dramatic, but here is again what he said.

''But as a professional, I have the luxury of putting politics aside and focusing on the task at hand. Protecting people from terrorists and criminals while building schools and lasting friendships is a good mission, no matter what brush it's tarred with.

''Nothing any talking head will say can deter me or my fellow Marines from caring about the people of Iraq,'' and I would say they are there because they know that by caring for the people of Iraq or Afghanistan, they know that they are caring for the people of the United States, ''or take away from the sacrifices of our comrades. Fear in the face of adversity is human nature, and many people who take the counsel of their fears speak today. We are not deaf to their cries; neither do we take heed.''

A simple request from Major Ben Connable is this. ''All we ask is that Americans stand by us by supporting not just the troops, but also the mission. We'll take care of the rest.''

WHO INVESTIGATES THE INVESTIGATORS?

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 60 minutes as the designee of the minority leader.

Mr. MCDERMOTT. Mr. Speaker, today a 24-year-old Army Reserve specialist was sentenced to do a year in jail, reduction in rank and dishonorable discharge for his role in the Abu Ghraib prison scandal. What would his sentence have been if this soldier had served as judge, jury, prosecution and defense? Indeed, would there have been any charges filed at all if the 24-year-old soldier had investigated himself? Of course not. It would be justice denied.

Yet that is exactly what the military commanders and civilian leaders at the Pentagon are trying to pull off.

Yesterday, before a Senate committee, Lieutenant General Ricardo Sanchez, the top military commander in Iraq, vowed that the scandal would be investigated up the chain of command, including himself.

At a time when the world must see that no one in the U.S. is above the law, the Pentagon arrogantly acts as if it answers only to itself. The first low-ranking soldier was thrown overboard today. Other low-ranking soldiers will soon follow.

This is how Secretary Rumsfeld, Lieutenant General Sanchez and all of their minions define justice. Do as I say, not as I do. The world is watching, and the world is not buying the Pentagon justice charade.

Outside the courtroom today, an Iraqi civilian told the Associate Press, ''Those who are executing the laws and orders are not the problem. Punishment of the officials who gave the orders is what matters.''

More than anything else, these court-martials may just reinforce the mistrust and resentment against the United States throughout the Arab world.

The way the proceedings are being handled is under fire. The Pentagon allowed media to attend the court-martial but television cameras were barred, even as representatives from Middle East networks demanded access.

Apparently, it is okay for the President to go on Arab television but it is not okay for the Arab world to see an

example of justice in the United States military. Why not?

What is more, the U.S. refused to allow either Iraqi or international human rights groups to attend and observe the court-martial. U.S. military brass cited unspecified ''security'' issues for denying the request. Human Rights Watch could not even get the name of a U.S. military leader in order to lodge a complaint.

The leader of the human rights organization in the Middle East called the U.S. military's refusal ''a bad decision in its own right. It also sends a terrible signal to the Iraqis and others deeply concerned about what transpired in Abu Ghraib.''

America's credibility is on the line around the world, but U.S. military commanders deny access to a courtroom by credible, independent human rights organizations. What will it take for Secretary Rumsfeld and the military commanders to get it?

Another soldier at the prison told ABC News today, ''There's definitely a cover-up,'' and the soldier said military commanders authorized the abuse.

Several soldiers may be on trial in a military court in Iraq, but America is on trial in the world court. Denying access to human rights organizations will be seen round the world as a cover-up. Claiming this scandal begins and ends with a few low-ranking soldiers will be seen around the world as a cover-up. Claiming the military can investigate itself all the way up the chain of command will be seen as what it is, an end run around justice.

If there is nothing to hide, then get it out in the open. For the sake of every good and decent American soldier in harm's way in Iraq, this Congress must show the world that no one is above the law in America.

Every day, there are new allegations of abuses in Iraq and Guantanamo Bay. The Observer, which is a London newspaper, is reporting that a British prisoner just released from Guantanamo claims there are organized American punishment units called Extreme Reaction Forces or ERFs. Prisoners fear being ERF'd. They have created a new word for this kind of abuse. There are rumors, in fact, that a member of each ERF team takes a videotape and they are there. We need to see those ERF tapes.

A woman in Iraq claimed U.S. military forces took her husband and is holding him without charges because her father was not in the house. They said, well, if your father is not here, we are going to take your husband.

The International Red Cross quoted military intelligence officers as saying between 70 and 90 percent of the Iraqis in prison were arrested by mistake.

□ 2300

Iraq is spinning out of control. This war has gone from crisis to calamity to catastrophe. If the President will not lead the Nation, the Congress must. We need an investigation now. We need to remove Rumsfeld and Wolfowitz and Cambone and Feith, for that matter. We need to do it now. Some low-ranking U.S. soldiers are not the only ones on trial. America is on trial as well.

What is fascinating about reading the American press today is that if that is all you watch, if you watch Fox TV, which is a Republican body, I mean, the guy who runs it used to be the PR director, or the National Committee Chairman for the Republican Party. Or if you read the newspapers, there is a tight control on the news that you and I get in the United States.

Now, if you pick up a foreign newspaper, you find some very interesting things. In the Guardian, on May 18, there is an article by a man named Crispin Blunt. He says, ''I voted for intervention in Iraq. Not because of the threat of weapons of mass destruction, but because of the failure to ensure the removal of Saddam Hussein in 1991 and its consequences.'' Meaning the effects of sanctions. Now, he says, I have changed my mind. We need to get out. We must get out.

''The reason for the failed policy is simple: When the British occupied Iraq following the first world war, they were greeted initially as liberators of Iraqis from the Ottoman Empire. But over time, the British came to be seen as occupiers. Iraq experts and historians predict that after 9 months or so, the American and British forces that came to liberate Iraq from the Ba'athists rule would be seen as foreign occupiers.''

My colleagues, we are there today. We are there today. We are just like the British were in 1923 or whatever.

''The insurgents in Iraq cannot be written off as a small minority led by foreign jihadis. The silent majority of Iraqis increasingly side with the insurgents, who are viewed as part of the Iraqi nation waging resistance against the foreign occupiers. However nasty their tactics, the insurgents are viewed as the 'us' in this new battle to expunge the occupiers. However noble and rational the goals of the coalition, U.S. and Britain, they are perceived as the alien 'them.' ''

It goes on to say ''an exit strategy is needed above all to preserve and restore in Arab eyes the moral authority of our liberal democratic values, which have been under intense assault most recently with the emergence of Abu Ghraib.''

Another article in the Guardian dated May 19, is entitled ''Former Guantanamo Chief Clashed with Army Interrogators. General's Sacking Cleared Way for Pentagon to Rewrite Rules.''

What we are seeing in those pictures that have been on the front pages of the newspapers of this country are the result of decisions made a long time ago, not by six or seven soldiers, but by people at the very top, beginning with Mr. Rumsfeld. This article reports on the sacking of a General Rick Baccus. He is the commander of the Rhode Island National Guard. He was sacked amid charges from the Pentagon that he was too soft on the detainees at Guantanamo Bay.

Now, ''General Baccus was removed in October of 2002. That is a long time ago. Apparently, after frustrating military intelligence officers by granting detainees such privileges as distributing copies of the Koran and adjusting meal times for Ramadan. He also disciplined prison guards for screaming at inmates.''

This is why he was sacked. He was too soft on the prisoners. This goes on to say ''General Baccus' unceremonious departure offers a rare insight as to how the Pentagon rewrote the rules of warfare to suit the Bush administration's view of a radically changed world following the attacks of September 11. It also suggests what happens to military personnel slow to sign up to the Pentagon's changed view of the world.

''Eighteen months after being removed from Guantanamo, General Baccus, aged 51, and commander of the National Guard in Rhode Island, is still waiting for a new military assignment.''

Do you think he will get one in this administration? I doubt it.

Now, the connection between Guantanamo and Abu Ghraib grew clearer this month when General Baccus' successor at the camp, guess who, Major General Geoffrey Miller, was put in charge of the U.S. prisons in Iraq. He was in Guantanamo, and they said, come on over here and fix up what is going on in Iraq.

''General Miller's recommendations for Abu Ghraib, merging the functions of prison guard and interrogator, as he did at Guantanamo, was cited in the Pentagon's internal report on abuse at the now notorious prison.''

This is the Pentagon's report on abuse. They said that was wrong, to merge the guards and the interrogators. You had guards who had no training whatsoever in interrogation being put in the position of being interrogators. It is no wonder we had this problem.

There is an article that talks about what happened after the Second World War and how long they trained the people before they went to Nuremberg to question the Nazis, how long it took them to prepare the interrogators to do it in a humane and professional way.

This administration, run by the Secretary of War, Mr. Rumsfeld, had no time to wait, to plan. They had to go right now. It was a war of choice. It was not a war where there was any impending danger to us. It is very clear now. But they wanted to get in and get it done as quick as possible before anybody figured out what they were up to. So they rushed in, totally ill prepared, and put these young people that they are now convicting and throwing out of the military.

I was a psychiatrist during the Vietnam era, and I saw these people coming

back from Vietnam. A lot of them wound up in the brig, and I would see them. And let me tell my colleagues something. Giving somebody a bad conduct discharge really scars them for life. Every time you go for a job, you are asked, do you have an honorable discharge? Well, no, I do not, I got a bad conduct discharge. They are going to have trouble getting jobs the rest of their lives on the basis of orders given to them by somebody who will take his very generous Federal pension and go off in real luxury for the rest of his life.

Those six or seven people that are being dumped out on their ear or will be dumped out in the near future are being treated unfairly, and everybody should know that, and everybody should be able to see it.

Now, today, there was also a story in the Los Angeles Times, because you have to read widely in this country. You cannot just read the papers here in Washington, DC. The L.A. Times carries a story by Richard Serrano entitled ''3 Witnesses at Iraq Abuse Hearing Refuse to Testify.''

''Three key witnesses, including a senior officer in charge of interrogations, refused to testify during a secret hearing against an alleged ringleader of the Abu Ghraib prison abuse scandal on the grounds that they might incriminate themselves.''

They took the 5th. An officer of the United States military took the 5th, and this House does not have an investigation. We do not think it is worthwhile to find out what is going on here.

''The witnesses appeared on April 26 at a preliminary hearing behind closed doors for Corporal Charles A. Graner, who has been identified in court-martial documents as the leader of a band of military police guards who humiliated and abused Iraqi detainees and compiled a bizarre photographic record of their activities. The prospective witnesses' refusal to testify is described in court-martial documents obtained by the Times on Tuesday.

''That all of the prospective witnesses called up by prosecutors invoked the military equivalent of the Fifth Amendment right against self-incrimination indicates the key players in the abuse scandal may be closing ranks to save themselves and one another.''

So here comes the coverup. And if the House of Representatives, with the responsibility for oversight given to us by the Constitution, shirks their duty on this issue, they are participating in the coverup as well.

□ 2310

There is no way the House can excuse itself from investigating this, and our leadership just laughs and says it is a frat house prank. This was no frat house prank. This has ruined our reputation in the world. It has taken away our moral authority to deal because not only did we do it, but we will not own up to it and talk about how it happened.

Just a week after the hearing on May 3, the judge, Major Dewayne McOsker, Jr., ruled there was enough evidence to proceed. He cited a CD-ROM containing photographs and videos taken inside the prison showing detainees being abused and humiliated, along with written statements from four of the other six guards implicated in the scandal. ''I believe there is enough credible evidence to establish reasonable grounds'' that Graner is guilty, McOsker concluded.

Now he went ahead and did it anyway in spite of the fact that a senior officer said I cannot talk about this because I might incriminate myself. The New York Times, May 19, ''Two Generals Deny Issuing Orders to Allow Prison Abuse in Iraq.'' Big surprise, right.

''The two generals in charge of the occupation of Iraq took responsibility today for the prison abuse scandal there, but they also denied having issued or approved any orders that they say could have been interpreted to allow humiliation or mistreatment of prisoners.''

Now if there is nothing to hide, we should have an investigation. Why do we not bring it out? That is the question that this House must face. Members cannot go out with a straight face and talk to the friends and the families and the loved ones of people who have died in Iraq and say that you have done your job as a U.S. Congressman if you have not participated in demanding an investigation.

To say that this will be handled by the Army, the Army will handle it, I guess they will.

ABC News, May 18, ''Definitely a Cover-Up. Former Abu Ghraib Intel Staffer Says Army Concealed Involvement in Abuse Scandal.''

'' 'There is definitely a cover-up,' the witness, Sergeant Samuel Provance said. 'People are either telling themselves or being told to be quiet.'

''Provance, 30, was part of the 302nd Military Intelligence Battalion stationed at Abu Ghraib last September. He spoke to ABC despite orders from his commanders not to.

'' 'What I am surprised at was the silence,' says Provance. 'The collective silence by so many people that had to be involved, that had to have seen something or heard something.'

''Provance, now stationed in Germany, ran the top secret computer network used by military intelligence at the prison.''

This is not just some guy who heard scuttlebutt around someplace. He was in the unit doing the intelligence work. He said while he did not see the actual abuses, the interrogators with whom he worked freely admitted they directed the MP's rough treatment of prisoners.

I do not know, it sounds like a smoking gun if somebody wanted to look at it. Anybody who has been in a military organization realizes there is something called the Uniform Code of Military Justice, the UCMJ. And as an enlisted person at the bottom, you are responsible to carry out the orders of your superior. Privates carry out the orders of corporals, sergeants and lieutenants and captains and major and so forth up the line. Failure to do so leads to a court-martial or to an article 15 or some kind of punishment, and everybody knows it.

So the fact that they threw this poor guy out today with a bad conduct discharge, and we will see if anything more happens. If by the end of a few weeks all we see are seven people that they threw out as rogue soldiers, the injustice and the cover-up started by the people in the Department of Defense will be clear as it is in the sunshine.

This House cannot allow that to happen. The New York Times again, ''Officers Say U.S. Colonel at Abu Ghraib Prison Felt Intense Pressure to Get Inmates to Talk.''

When they sent Colonel Thomas Pappas over there as the head of military intelligence, he was under enormous pressure from his superiors to extract more information from prisoners there, according to senior Army officers.

People knew this. This is not something that was not known, it is just that the House of Representatives does not want to ask. They do not want to look. They want to close their eyes and hope it will go away. This is not going to go away because the world is watching and looking and reacting to it. Maybe you can close your eyes until after the election is over, but you will not be able to close your eyes to the impact that it has on the United States and to our troops.

These pictures have stirred up the opposition, the people out there. All they have to do is show those pictures around, and people will say, yes, I will get them, which makes it more dangerous for our people every single day.

Being out there in a guerilla warfare is awful. I heard about it from the soldiers and sailors that I dealt with in Vietnam. I did not experience it myself. I did not have to. I know it was awful. We are making their job tougher by not saying we committed a mistake, we were wrong, we are going to right it. It is not just going to be the folks down at the bottom.

There is a wonderful movie that everybody in the House of Representatives ought to have to see, ''Paths of Glory.'' It is a story from the First World War about French troops who did not want to get up out of the trenches and charge into the fire because as they got to the top of the ladder, they were getting their heads shot off, so they failed to charge. The general called a court-martial and picked three guys at random. They shot them in firing squads, and the movie is about how they were selected, who they were, and why they were picked. These six or seven people will be those same sorts of people, while the generals sit in the back, have a steak, drink a glass of wine, take their pension and go off with their life.

This issue is too big for this House to ignore.

Mr. Speaker, as the third-ranking person in the United States of America, ahead of you is only the President and the Vice President, you are the Speaker, the one who controls the House of the people, for you to allow this to go uninvestigated is absolutely unacceptable. In this next election, the American people ought to turn out the Republicans wholesale if they do not deal with this issue because what it has cost us, never mind the money, the $200 billion we have already spent and $25 billion more they are going to ask for in a few days; the money is important, of course, but what we have done to our reputation and our ability to lead the free world may be irreparable. I hope not.

If we act quickly and decisively, I think we can change it, but it cannot be dragged along and acted as though this is all right. It is not all right, and it will not be solved by throwing seven people out of the United States Army.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

(The following Members (at the request of Mrs. CAPITO) to revise and extend their remarks and include extraneous material:)

Mr. SOUDER, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, May 20.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 923. An act to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve.

H.R. 3104. An act to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom.

ADJOURNMENT

Mr. MCDERMOTT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Thursday, May 20, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8189. A letter from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting notification of a decision to implement performance by the Most Efficient Organization (MEO) for the Public Works Center Norfolk, VA, Detachments Philadelphia and Mechanicsburg, PA, and Earle, NJ (initiative number NC20010758); to the Committee on Armed Services.

8190. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Admiral James O. Ellis, Jr., United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

8191. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Richard E. Brown III, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

8192. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Algeria pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

8193. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services (Transmittal No. 04-06), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

8194. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Poland (Transmittal No. DDTC 005-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8195. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Israel (Transmittal No. DDTC 026-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8196. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed transfer of major defense equipment from the Government of Switzerland (GOS) (Transmittal RSAT-3-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

8197. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's annual report on entitled, ''Patterns of Global Terrorism: 2003,'' pursuant to 22 U.S.C. 2656f; to the Committee on International Relations.

8198. A letter from the Deputy Secretary, Department of the Treasury, transmitting as required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on International Relations.

8199. A letter from the Under Secretary for Industry and Security, Department of Commerce, transmitting the Department's report entitled, ''Imposition of Foreign Policy Controls on Protective and Detection Equipment and Components, not Specially Designed for Military Use,'' pursuant to Section 6 of the Export Administration Act of 1979, as amended; to the Committee on International Relations.

8200. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on ''Overseas Surplus Property,'' pursuant to Public Law 105–277, section 2215; to the Committee on International Relations.

8201. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's determination that five countries are not cooperating fully with U.S. antiterrorism efforts: Cuba, Iran, Libya, North Korea, and Syria, pursuant to 22 U.S.C. 2781; to the Committee on International Relations.

8202. A letter from the Archivist of the United States, National Archives and Records Administration, transmitting a report on a proposed archival depository for the Presidential records and other historical materials of the Clinton administration, pursuant to 44 U.S.C. 2112; to the Committee on Government Reform.

8203. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in teh Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments; Corrections [Docket No. 031216314-3314-01; I.D. 041904C] received May 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8204. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments; Pacific Halibut Fisheries; Corrections [Docket No. 031216314-3314-01; I.D. 042604D] (RIN: 0648-AR54) received May 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8205. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/''Other flatfish'' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 031124287-4060-02; I.D. 041404B] received May 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8206. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of

Alaska [Docket No. 031125292-4061-02; I.D. 042304C] received May 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8207. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Extension of Marine Reserves [Docket No. 0312173020-4126-02; I.D. 112403D] (RIN: 0648-AR66) received May 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8208. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Amendment [Docket No. 040112010-4114-02; I.D. 122203A] (RIN: 0648-AN17) received May 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8209. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting Final Feasibility Report and Final Environmental Impact Statement, dated September 2000, discussing the construction of ecosystem restoration and recreation improvements along the Wolf River, Memphis, Tennessee, as authorized by Section 101(b)(25) of the Water Resources Development Act of 2000; to the Committee on Transportation and Infrastructure.

8210. A letter from the Administrator, General Services Administration, transmitting an informational copy of the General Services Administration's Fiscal Year 2005 Capital Investment and Leasing Program, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

8211. A letter from the Secretary, Department of Labor, transmitting the Department's report entitled, ''2003 Findings on the Worst Forms of Child Labor,'' pursuant to 19 U.S.C. 2464; to the Committee on Ways and Means.

8212. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Reduction of Tax Attributes Due to Discharge of Indebtedness [TD 9127] (RIN: 1545-BC47) received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8213. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories (Rev. Rul. 2004-48) received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8214. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Rev. Proc. 2004-26) received May 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8215. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and in methods of accounting. (Rev. Proc. 2004-32) received May 12, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8216. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit or abatement; determination of correct tax liability. (Rev. Proc. 2004-29) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8217. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Losses Reported from Inflated Basis Assets from Lease Stripping Transactions — received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8218. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Expenses and interest relating to tax-exempt income (Rev. Rul. 2004-47) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8219. A letter from the Acting Chief, Publication and Reg. Branch, Internal Revenue Service, transmitting the Service's final rule — Qualified Amended Returns [Notice 2004-38] received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8220. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Deduction for Interest on Qualified Education Loans [TD 9125] (RIN: 1545-AW01) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8221. A letter from the Acting Chief, Publications and Reg. Branch, Internal Revenue Service, transmitting the Service's final rule — Son of Boss Settlement Iniative (Announcement 2004-46) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8222. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Section 704(b) and Capital Account Revaluations [TD 9126] (RIN: 1545-BB10) received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8223. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Capital Gains Dividends of RICs and REITs [Notice 2004-39] received May 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8224. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Health Savings Accounts — Interaction with Other Health Arrangements (Rev. Rul. 2004-45) received May 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8225. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rates Update [Notice 2004-40] received May 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 4103. A bill to extend and modify the trade benefits under the African Growth and Opportunity Act; with an amendment (Rept. 108–501). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 2912. A bill to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government (Rept. 108–502). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Joint Resolution 83. Resolution proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives; adversely (Rept. 108–503). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ISSA:

H.R. 4389. A bill to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes; to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PRICE of North Carolina (for himself and Mr. SHAYS):

H.R. 4390. A bill to extend the Military Extraterritorial Jurisdiction Act (MEJA) to provide for the arrest and commitment of contractor personnel who commit Federal offenses or war crimes while supporting the mission of the Department of Defense overseas; to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BRADY of Texas (for himself, Mr. SHAW, Mr. BERMAN, Mr. MCKEON, Mr. SAM JOHNSON of Texas, and Mr. MICHAUD):

H.R. 4391. A bill to amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants; to the Committee on Ways and Means.

By Mr. WELLER (for himself, Mrs. BIGGERT, Mr. TOM DAVIS of Virginia, Mr. HONDA, Mrs. JOHNSON of Connecticut, and Mr. MANZULLO):

H.R. 4392. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income for certain education and training expenses, and for other purposes; to the Committee on Ways and Means.

By Mr. CASE:

H.R. 4393. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating certain lands along the northern coast of Maui, Hawaii, as a unit of the National Park System; to the Committee on Resources.

By Mr. BROWN of Ohio (for himself, Mr. NEAL of Massachusetts, Ms. DELAURO, and Mr. WAXMAN):

H.R. 4394. A bill to make ineligible for Federal contract awards any expatriated corporations and any companies that do business with, or own foreign subsidiaries that do business with, state sponsors of terrorism or foreign terrorist organizations; to the Committee on Government Reform.

By Mr. CARSON of Oklahoma (for himself and Mr. SULLIVAN):

H.R. 4395. A bill to amend the Controlled Substances Act with respect to the regulation of ephedrine alkaloids, including ephedrine and pseudoesphedrine; to the Committee

on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEMINT (for himself, Mr. NORWOOD, and Mrs. MUSGRAVE):

H.R. 4396. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain construction engineering and design professionals; to the Committee on Education and the Workforce.

By Mr. ENGLISH:

H.R. 4397. A bill to temporarily exempt scrapping of naval vessels and Maritime Administration vessels from certain environmental statutes governing handling of hazardous materials; to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HONDA (for himself, Ms. ESHOO, and Mr. CARDOZA):

H.R. 4398. A bill to amend the Harmonized Tariff Schedule of the United States to provide that the calculation of the duty imposed on imported cherries that are provisionally preserved does not include the weight of the preservative materials of the cherries; to the Committee on Ways and Means.

By Mrs. KELLY:

H.R. 4399. A bill to establish certain conditions on the Secretary of Veterans Affairs implementing any recommendation of the CARES Commission that would have the effect of eliminating or severely reducing any medical service provided to veterans throughout the United States at Department of Veterans Affairs medical facilities; to the Committee on Veterans' Affairs.

By Mrs. LOWEY (for herself, Mr. TURNER of Texas, Ms. LORETTA SANCHEZ of California, Mr. DICKS, Ms. SLAUGHTER, Mr. DEFAZIO, Mr. ANDREWS, Ms. NORTON, Ms. MCCARTHY of Missouri, Ms. JACKSON-LEE of Texas, Mr. ETHERIDGE, Mr. LANGEVIN, Mr. SANDLIN, Mr. GRIJALVA, Mr. TOWNS, Ms. LEE, Mr. REYES, Mr. GUTIERREZ, Mrs. MALONEY, Mr. LANTOS, Mr. MATSUI, Mr. DELAHUNT, Mr. CARDOZA, Mr. HOEFFEL, Mr. CASE, Mr. FROST, Mr. SKELTON, Mr. HASTINGS of Florida, Mr. GREEN of Texas, Mr. MOORE, Mrs. CAPPS, Mr. NADLER, Ms. ROYBAL-ALLARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WYNN, Ms. KILPATRICK, Mr. TIERNEY, Mr. ACEVEDO-VILA, and Mr. LUCAS of Kentucky):

H.R. 4400. A bill to establish the Office of Wireless Public Safety Interoperable Communications, to provide grants and other support to achieve communications interoperability in the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MYRICK:

H.R. 4401. A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)-; 9,10-Anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4402. A bill to suspend temporarily the duty on 2-Naphthalenesulfonic acid, 6-[(2,4-diaminophenyl)azo]-3-[[4-[[4-[[7-[(2,4-diaminophenyl azo]-1-hydroxy-3-sulfo-2-naphthalenyl]azo]phenyl]amino]-3-sulfophenyl]azo]-4-hydroxy-, trisodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4403. A bill to suspend temporarily the duty on Bis-Ethylhexyloxyphenol Methoxyphenol Triazine; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4404. A bill to suspend temporarily the duty on Benzamide, 3-amino-N-[2-[[2-(sulfooxy)ethyl]sulfonyl]ethyl]-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 4405. A bill to suspend temporarily the duty on Methylene Bis-Benzotriazolyl Tetramethylbutylphenol; to the Committee on Ways and Means.

By Mr. SENSENBRENNER (for himself and Mr. HOSTETTLER):

H.R. 4406. A bill to reform the judicial review process of orders of removal for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. UDALL of Colorado:

H.R. 4407. A bill to authorize appropriations for the National Institute of Standards and Technology for fiscal years 2005, 2006, 2007, and 2008, and for other purposes; to the Committee on Science.

By Mr. COLLINS:

H. Con. Res. 431. Concurrent resolution urging the Government of Vietnam to provide to the United States all information in the possession of Vietnam regarding Americans unaccounted for from the Vietnam War, and for other purposes; to the Committee on International Relations.

By Mr. SULLIVAN:

H. Res. 650. A resolution expressing the sense of the House with respect to the life and work of Tony Randall; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

330. The SPEAKER presented a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 63 memorializing the President and Congress of the United States to pass legislation to allow prescription drugs to be imported from Canada; to the Committee on Energy and Commerce.

331. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 64 expressing diappointment in the lack of support the current administration has shown toward veterans of the armed forces, and memorializing Congress to increase funding for the continuation and expansion of veterans benefits and services; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Ms. JACKSON-LEE of Texas introduced a bill (H.R. 4408) for the relief of Jen-Hui Tsai; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 82: Mr. OWENS.
H.R. 83: Mr. OWENS.
H.R. 85: Mr. OWENS.
H.R. 163: Mrs. CHRISTENSEN.
H.R. 284: Mr. GARY G. MILLER of California and Mr. LANTOS.
H.R. 333: Ms. NORTON.
H.R. 527: Mr. CHANDLER.
H.R. 716: Mr. CHANDLER.
H.R. 742: Mr. COLLINS and Mr. LANGEVIN.
H.R. 806: Mrs. TAUSCHER and Mr. WICKER.
H.R. 843: Mr. TIERNEY.
H.R. 1043: Mr. PAYNE.
H.R. 1105: Mr. CHANDLER.
H.R. 1155: Mr. MEEHAN, Mr. WEINER, and Mr. ALLEN.
H.R. 1310: Mr. ISAKSON.
H.R. 1322: Mr. RODRIGUEZ.
H.R. 1477: Ms. WOOLSEY.
H.R. 1638: Mr. LARSON of Connecticut and Mr. Chandler.
H.R. 1639: Mr. MILLER of North Carolina, Mr. STARK, and Mr. RANGEL.
H.R. 1716: Mr. BILIRAKIS.
H.R. 1735: Mr. PETERSON of Minnesota.
H.R. 1746: Mr. SWEENEY and Mr. GOODE.
H.R. 1782: Mr. WATT.
H.R. 1793: Mr. KLINE.
H.R. 1805: Mr. CHANDLER.
H.R. 1824: Mr. SANDLIN.
H.R. 1830: Mr. OWENS.
H.R. 1884: Mr. WATT.
H.R. 1935: Mrs. LOWEY and Mr. UDALL of Colorado.
H.R. 1993: Mr. TOWNS.
H.R. 2133: Mr. RYAN of Wisconsin and Mr. WHITFIELD.
H.R. 2217: Mr. MCDERMOTT and Mr. BOUCHER.
H.R. 2293: Mr. BARTLETT of Maryland.
H.R. 2366: Mr. CHANDLER.
H.R. 2387: Mr. WEXLER.
H.R. 2394: Mr. MCINTYRE and Mr. DOGGETT.
H.R. 2402: Mr. VAN HOLLEN and Mr. FORD.
H.R. 2527: Ms. WATSON and Mr. LARSEN of Washington.
H.R. 2568: Mr. CHANDLER.
H.R. 2621: Mr. LYNCH and Ms. LEE.
H.R. 2627: Mrs. MUSGRAVE.
H.R. 2674: Mr. DOGGETT, Mr. FROST, Mr. MCDERMOTT, Mr. OWENS, and Mr. GORDON.
H.R. 2699: Mr. WAMP, Mr. HILL, Mr. ALEXANDER, Mr. STENHOLM, and Mr. LUCAS of Kentucky.
H.R. 2863: Mr. LARSEN of Washington.
H.R. 2956: Mr. CHANDLER.
H.R. 3066: Mr. COOPER.
H.R. 3069: Mr. WILSON of South Carolina and Mr. NEY.
H.R. 3078: Mr. BAIRD.
H.R. 3111: Mr. BOEHLERT, Mr. BILIRAKIS, Mr. PLATTS, Mr. UDALL of Colorado, and Mr. ANDREWS.
H.R. 3192: Mr. CHANDLER.
H.R. 3306: Mr. OWENS.
H.R. 3313: Mr. COLLINS, Mr. CUNNINGHAM, and Mr. RYUN of Kansas.
H.R. 3412: Ms. NORTON.
H.R. 3422: Mr. BAIRD.
H.R. 3441: Ms. DELAURO.
H.R. 3474: Mr. LANGEVIN.
H.R. 3574: Mr. CASE, Mr. SCHIFF, Mr. POMBO, and Mr. ROGERS of Michigan.
H.R. 3596: Mr. EMANUEL, Mrs. LOWEY, Ms. GRANGER, Mr. ISAKSON, and Mr. WILSON of South Carolina.
H.R. 3619: Mr. CASE and Mr. THOMPSON of Mississippi.
H.R. 3716: Mr. DINGELL.
H.R. 3737: Mr. MORAN of Virginia.
H.R. 3743: Mr. CHANDLER.
H.R. 3779: Mrs. LOWEY.
H.R. 3798: Mr. MARSHALL.
H.R. 3801: Mr. BRADLEY of New Hampshire and Mr. SESSIONS.
H.R. 3803: Mr. BOUCHER and Mr. BISHOP of Georgia.
H.R. 3810: Mr. ALLEN.
H.R. 3831: Mr. FRANK of Massachusetts.
H.R. 3936: Mr. BILIRAKIS.
H.R. 3950: Mr. SESSIONS.

H.R. 3953: Mr. SOUDER and Mr. GRIJALVA.
H.R. 3960: Mr. EVANS.
H.R. 3968: Ms. LINDA T. SANCHEZ of California and Mrs. MCCARTHY of New York.
H.R. 3988: Mr. LAMPSON, Ms. LINDA T. SANCHEZ of California, Mr. MENENDEZ, Mr. LANTOS, and Mr. SCOTT of Virginia.
H.R. 4032: Mr. PETERSON of Minnesota.
H.R. 4043: Mr. RUSH and Ms. MILLENDER-MCDONALD.
H.R. 4057: Ms. CARSON of Indiana and Mr. ENGLISH.
H.R. 4097: Mr. BOEHLERT, Mr. MCNULTY, Mr. SERRANO, Mr. WALSH, Mr. FROST, and Mr. DOGGETT.
H.R. 4103: Mr. OWENS.
H.R. 4108: Mr. LEVIN, Mr. ACEVEDO-VILA, Mr. RODRIGUEZ, Mr. SHAW, Mr. HASTINGS of Florida, Mr. FROST, Mr. PRICE of North Carolina, Mr. ROTHMAN, Mrs. MCCARTHY of New York, and Ms. DELAURO.
H.R. 4175: Mr. BILIRAKIS.
H.R. 4191: Ms. LEE, Mr. MEEKS of New York, Ms. JACKSON-LEE of Texas, Ms. NORTON, Mr. PAYNE, and Mr. LEWIS of Georgia.
H.R. 4212: Mr. BERMAN and Mr. STARK.
H.R. 4248: Mr. BILIRAKIS.
H.R. 4255: Mr. SERRANO, Mr. BAIRD, Mr. LARSEN of Washington, and Mr. HOLT.
H.R. 4256: Mrs. NAPOLITANO and Mr. RUSH.
H.R. 4257: Mrs. EMERSON, Mr. OSBORNE, Mr. ROGERS of Kentucky, and Mr. COSTELLO.
H.R. 4263: Mr. BLUMENAUER, Mr. LARSON of Connecticut, Mr. GORDON, Mr. ROSS, Mr. THOMPSON of Mississippi, Mr. MOORE, Mr. OWENS, Mr. HASTINGS of Florida, Mr. INSLEE, Mr. NETHERCUTT, Ms. DELAURO, and Mr. DEUTSCH.
H.R. 4264: Mr. VITTER.
H.R. 4312: Mr. FROST, Mr. MATSUI, Mr. MCNULTY, Mr. SKELTON, Ms. HASTINGS of Florida, Mr. MOORE, Mrs. CAPPS, Mr. NADLER, Ms. ROYAL-ALLARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MALONEY, and Mr. WYNN.
H.R. 4341: Mr. RUSH, Mr. FORD, Ms. MCCARTHY of Missouri, Mr. BOUCHER, and Mr. MCINTYRE.
H.R. 4343: Mr. PITTS.
H.R. 4346: Mr. COOPER, Mr. LAMPSON, Mr. FROST, Mr. MORAN of Virginia, Mr. LUCAS of Kentucky, Mr. OWENS, Mr. ROSS, Mr. GUTIERREZ, Mr. FILNER, Ms. DELAURO, Mr. THOMPSON of California, Mr. PALLONE, Ms. WATERS, Mrs. MCCARTHY of New York, Mr. STRICKLAND, Mr. FRANK of Massachusetts, Mr. TURNER of Texas, Mr. ROTHMAN, Mr. MEEKS of New York, Mr. BELL, Mr. JACKSON of Illinois, Mr. SANDERS, Mr. DAVIS of Tennessee, Mr. TAYLOR of Mississippi, Mr. FALEOMAVAEGA, Mr. THOMPSON of Mississippi, Ms. CORRINE BROWN of Florida, and Mr. CUMMINGS.
H.R. 4359: Mr. COLE, Mr. CHOCOLA, Mr. KLINE, Mr. FEENEY, Mr. NEUGEBAUER, Mr. BURGESS, Ms. HARRIS, Mr. TERRY, Mr. JOHNSON of Illinois, and Mrs. BLACKBURN.
H.R. 4363: Mr. SOUDER.
H.R. 4370: Mr. MCDERMOTT, Mr. MCNULTY, Mr. STARK, Mr. KUCINICH, Mr. DOGGETT, and Mr. GRIJALVA.
H.R. 4377: Mr. BELL.
H.R. 4378: Mrs. LOWEY and Mr. MCNULTY.
H.R. 4384: Mr. SHAW.
H.J. Res. 56: Mrs. MILLER of Michigan.
H.J. Res. 94: Mr. CULBERSON.
H. Con. Res. 298: Ms. HARRIS, Mr. SAM JOHNSON of Texas, and Mr. COLLINS.
H. Con. Res. 366: Mr. GONZALEZ.
H. Con. Res. 399: Ms. BORDALLO and Mr. DAVIS of Illinois.
H. Con. Res. 416: Mr. BOOZMAN, Mr. PASTOR, Mr. ETHERIDGE, and Mr. MARSHALL.
H. Con. Res. 422: Mr. EMANUEL, Mr. CAPUANO, Mr. NEAL of Massachusetts, Mr. FRANK of Massachusetts, and Mr. MEEHAN.
H. Res. 550: Mrs. LOWEY, Mr. HOEFFEL, and Mr. WEXLER.
H. Res. 604: Mrs. LOWEY.
H. Res. 642: Mr. UDALL of Colorado.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3473: Mr. CAMP.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible, God only wise, great are the works of Your hands and of Your heart. Teach us to live to please You. As we labor, may our focus be on Your priorities and Your providence. During moments of confusion, help us to whisper a prayer for wisdom. Remind us to set our affection on the things above that will live beyond time into eternity.

Give our Senators and all who serve You on Capitol Hill the awareness of their accountability to You. Help us to remember that we are accountable for every idle word. Empower us to weigh our faults, to measure our words, and to labor in a way that will bring You pleasure. Increase Your presence in our lives and in this Chamber that Your power may be felt by all who need Your touch.

We pray today for those who mourn, particularly for the family of Bob Bean. Sustain them in their grief. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the first 90 minutes will be devoted to a period of morning business, the first 45 minutes controlled by the minority leader or his designee, with the final 45 minutes controlled by the majority side of the aisle. Following morning business, we will consider S. 15, the bioshield bill. Last night we reached agreement to allow for up to 2 hours of debate and a vote on passage of this important piece of legislation. We have been working on bringing the bioshield bill to the Senate floor for quite some time. I am pleased we are finally able to vote on passage on this measure.

Following passage of Project Bioshield, we will resume consideration of the Department of Defense authorization. Pending is the Lautenberg amendment on sanctions. That amendment has been under review, and Members may well want to speak on that issue.

Yesterday Chairman WARNER indicated it was his desire to reach agreement for an amendment filing deadline. I hope that is possible. We should set a time certain for Senators to file their defense amendments to the bill so the two managers may begin to try to clear amendments on both sides of the aisle.

Finally, I remind everyone we will be scheduling votes on judicial nominations as we go forward, and rollcall votes will be anticipated throughout the day.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that the morning business period be extended until 11:30 this morning with the additional time equally divided; further, that at 11:30 the Senate begin S. 15 as under the order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PRISONER ABUSE AT ABU GHRAIB

Mr. FRIST. Mr. President, very briefly, I want to comment on what has been a real focus for the Senate and our various committees; that is, the revelations of abuse at the Abu Ghraib prison in Iraq. It has been a shock to the Nation and indeed to the world. The photographs we reviewed last week are appalling to all of us. America is clearly outraged at the scandal, ashamed, as we all should be. But it all centers on the fact that a very few have tarnished the reputations and the honor of a great many people representing the United States of America.

That is why this body, the Senate, has and must continue to act swiftly and fully investigate, to the best of our ability, the incidents of abuse at the Abu Ghraib prison and hold accountable those responsible and take bold corrective actions where necessary to ensure that those incidents never occur again.

This body has acted in a quick and deliberate manner to get to the bottom of this matter. Over the past 2 weeks, we have had a series of hearings. There is a hearing going on in Armed Services now, the second day the Senate Armed Services Committee has held a meeting. The Intelligence Committee held their hearings. The Appropriations Committee has continued to hear from the Defense Department and other agencies on the matter. Our committees are working aggressively in terms of oversight, taking very appropriate action. We have received hours of testimony from administration officials and senior military officers. Members have had the opportunity to review the photos that depict some of the offensive acts.

This morning, for the last hour, the Armed Services Committee has been holding a hearing. The witnesses include General Abizaid, Commander of Central Command; Lieutenant General Sanchez, Commander of the coalition

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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forces in Iraq; and Major General Miller, who is now in charge of the Abu Ghraib prison.

I mention all of this because we are aggressively investigating and the Defense Department is cooperating fully in these inquiries and has been responsive to all of our requests. I am confident the Defense Department is investigating this matter thoroughly, both within and its relationships to other agencies as well. I am confident they are taking actions to ensure these acts never occur again. This is all essential if we will be successful, which I know we can be, in bringing democracy and the rule of law to Iraq and restoring the respect and confidence many people have historically had in our military.

Last week Secretary Rumsfeld's trip with General Myers occurred. That was a very important trip. It was a boost to the morale of the thousands and thousands of Americans who are serving so nobly in Iraq, our men and women who are fighting for democracy and freedom. I commend the Secretary and General Myers for making the trip.

Secretary Rumsfeld has demonstrated tremendous leadership throughout the last several weeks and months and tremendous character in his presentations, helping us to understand what happened there so we can all take corrective action. I commend Secretary Rumsfeld for his tremendous leadership and courage in addressing this matter of prisoner abuse, but also his leadership in the global war on terrorism. He has been a superb Secretary of Defense who really deserves the thanks of a grateful Nation, and we are thankful for his leadership in these very difficult times.

While I know there are going to be many more difficult days ahead on the prisoner abuse scandal, I am confident the Senate will continue to do what is right and necessary to ensure that justice prevails and such terrible acts never happen again.

I yield the floor.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, first, I wish to indicate that I share much of the sentiment expressed by the distinguished majority leader about the importance of the oversight responsibilities that we hold to be very critical in this difficult and challenging time. I want to single out, in particular, the chairman of the Armed Services Committee for his valiant effort in trying to establish just what went wrong, why it went wrong, and how we can prevent it from occurring again. He has been criticized, in some cases, by members of his own party. I think that is very unfortunate. I think we have a role and that role ought not to be minimized at times of crises.

I think we ought to take these investigations where the facts lead us. I do believe other committees ought to be involved as well, and in some cases they are.

I also compliment the distinguished chairman of the Foreign Relations Committee, Senator LUGAR, who always seems to be as engaged, in a constructive way, as anyone can be given his responsibilities. I think he ought to be recognized as well.

There is work that should be done on the Judiciary Committee, Governmental Affairs Committee, and other committees that I think have yet to pursue the responsibilities they have for oversight as fully and completely as perhaps they should. But certainly one would not have to look beyond the Armed Services Committee and Foreign Relations Committee for models. We can all be very proud and appreciative of the job they currently are doing.

WELLSTONE MENTAL HEALTH EQUITABLE TREATMENT ACT

Mr. DASCHLE. Mr. President, this past Saturday, thousands of people in Sioux Falls, SD, and 35 other cities across America, took part in walks to raise public awareness of mental health. The walks were sponsored by the National Alliance for the Mentally Ill.

In Sioux Falls, more than 300 people dodged rain showers to walk through Falls Park. They were different ages, with different backgrounds. But most shared at least one important distinction: They, or someone close to them, has a mental illness.

The same is true of nearly all Americans. A 1999 report by the Surgeon General found that more than 50 million Americans—one in five—suffer from mental illness each year. Many Members of this Senate—Republicans and Democrats—have spoken bravely and movingly about how mental illness has devastated their own parents, children or siblings.

No Senator who is with us today has demonstrated greater leadership on issues involving mental health than our distinguished colleague from New Mexico, Senator DOMENICI. He knows—from watching a daughter he loves very much struggle with schizophrenia—that mental illnesses don't affect just one person; they affect whole families.

Senator DOMENICI also knows about the stigma attached to mental illness, and the discrimination and suffering that people with mental health problems suffer as a result of that stigma.

Almost a decade ago, this proud conservative Republican found a proud liberal Democratic ally in the Senate. Like PETE DOMENICI, Paul Wellstone had seen someone he loved battle a serious mental illness. In Paul's case, it was his older brother. PETE DOMENICI and Paul Wellstone were an ''odd couple.'' But they were fiercely united in their determination to end discrimination against people with mental illness.

In 1996—thanks to their leadership—Congress passed the Mental Health Parity Act. The law—for the first time—prevented private health insurance plans that offer mental health coverage from setting annual or lifetime limits that are lower than those set for other illnesses. It was an important step forward. But it left a loophole. It allowed companies to set much higher deductibles and co-payments for mental health coverage. It also allowed insurers to set lower limits for outpatient visits or the number of days of inpatient treatment for mental illness. As a result, effective, affordable mental health treatment remains unaffordable for millions of Americans who need it.

The General Accounting Office estimates that nearly 90 percent of the Nation's health plans engage in legal discrimination based on mental health diagnoses. The results can be devastating: unemployment, broken homes, shattered lives, poverty, poor school performance—even suicide.

In 2000, Senator DOMENICI and Senator Wellstone introduced a new bill—the Mental Health Equitable Treatment Act—to close the loopholes. It is a modest proposal. It does not require employers to provide health insurance. It does not require employers that provide health insurance to offer mental health coverage. It simply says that, for employers that choose to offer mental health benefits, insurers cannot provide more restrictive coverage for mental health benefits than they do for other medical and surgical benefits.

In late Fall 2001, the Mental Health Equitable Treatment Act was unanimously added to the Senate version of the FY 2002 Labor HHS Appropriations bill. But it was stripped out of the final conference report at the insistence of the White House and the House Republican leadership.

More than two years ago, in April 2002, President Bush traveled to New Mexico with Senator DOMENICI and announced that he supports ''full mental health parity.'' After listening to families talk about their mental health horror stories, the President said, ''Americans with mental illness deserve our understanding and they deserve excellent care. They deserve a health care system that treats their illness with the same urgency as physical illness.''

Months later, in late October 2002, Paul Wellstone died in a plane crash, along with his wife, Sheila, their daughter, Marcia, and four others. At a memorial service for them in Washington, Senator DOMENICI delivered a beautiful eulogy to his friend; he announced that he was renaming the bill ''The Senator Paul Wellstone Mental Health Equitable Treatment Act,'' and vowed to pass it.

Despite having 69 Senate co-sponsors, more than a year-and-a-half after it was re-introduced in this Congress, the Wellstone bill—S. 486—remains stuck in the HELP Committee.

Wellstone Action, the grassroots organization frmed by Paul and Sheila

Wellstone's two sons to continue their parents' work, has set passage of the Wellstone mental health bill as its only legislative goal this year. Over the last several months, Wellstone Action members have sent more than 32,000 faxes and letters to Congress asking us to pass the Wellstone bill.

Bernie Cameron is one of these letter writers. She lives in Deerfield, NH. Her brother Joe was diagnosed with schizophrenia 50 years ago, when he was just 12. By the age of 14, Joe was living in a State hospital for children. He has spent a total of only about 5 years outside of institutions since then.

Bernie Cameron's parents were both Portuguese immigrants who came to this country when they were 16 years old. Her father worked as a furniture refinisher. Her mother worked at a shoe store. They had 6 children and never had much money. They visited Joe at least three times a week.

''Can you imagine visiting your child in a place that smells of urine, where people are screaming,'' Bernie asks. ''It was so frustrating to them that they couldn't afford a better place for Joe.''

The powerful medications Joe was prescribed gave him tremors and other health problems.

In 1983, after Joe's father died, his mother sold the family home. With the proceeds of the sale, the family sent Joe to McLean's, a very good private psychiatric hospital in Boston. He was then in his late 40s. The hospital changed Joe's medication, which finally brought his seizures under control. But, after a year, they told his family there was nothing else they could do that would make a real difference in the quality of his life; to much time had been lost.

Before Joe got sick, he was a straight A student. Today, he lives in a sheltered halfway house. He still has flashes of unusual intellect and wit. When that happens, his sister wonders, ''If we could have gotten him into a place like McLean's early on, would it have made a difference?''

Bernie Cameron calls her brother's story ''a perfect illustration of the 2–tier health care system in this country.'' If you have insurance and your illness involves a part of your body other than your brain, you get health care. But if your brain is affected—even if you have insurance—there's a good chance you won't get the health care you need.

A new poll by the Coalition for Fairness in Mental Health Coverage shows that 83 percent of Americans surveyed support mental health parity in insurance. When asked whether they would support parity if it raised the premiums one percent—the high-end cost estimated for the Wellstone bill—66 percent of Americans continued to say yes.

The Wellstone bill, as I said, has 69 co-sponsors in the Senate, and 245 cosponsors in the House. It is also supported by more than 360 national organizations.

Mr. President, I ask unanimous consent that the complete list be printed in the RECORD at the close of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DASCHLE. Yet the Wellstone bill remains stuck in the HELP Committee because of fierce opposition from the insurance industry and its allies.

Opponents of mental health parity claim it will drive up the cost of health coverage, which will result in more people losing their insurance.

Let me be clear. Their claims are not true. They are scare tactics. We have heard them all before.

To begin with, small businesses with fewer than 50 employees would be totally exempt.

In addition, two highly respected organizations have analyzed the Wellstone bill. The private accounting firm of PricewaterhouseCoopers predicts it would increase health insurance premiums by 1 percent. That is it, 1 percent. That works out to $1.32 per month.

The Congressional Budget Office predicts an even smaller average increase, nine-tenths of 1 percent. I think most families would think that is a pretty good deal.

Senators DOMENICI and Wellstone modeled their bill on the mental health parity provisions in the Federal Employees Health Benefits Program. According to the Office of Personnel Management, those provisions have increased FEHB premiums only 1.3 percent, and that includes treatment for substance abuse which is not part of the Wellstone bill.

Even these very small cost estimates are probably high because they do not factor in the cost savings resulting from parity.

The National Institute of Mental Health estimates the cost of untreated mental illness, including criminal justice and social welfare costs, at about $300 billion a year.

A 1999 Surgeon General report on mental illness estimates the direct business costs of lack of parity at $70 billion a year, mostly in reduced productivity and increased use of sick leave.

By comparison, when workers with depression were treated with prescription medications, medical costs declined by $882 per employee per year, and absenteeism dropped by 9 days, according to a study published in the Health Economics journal.

Why single out people with mental illness to hold down health care costs? Why not deny treatment for heart disease or diabetes or cancer? Psychiatric treatment does cost money, but so do heart surgeries, kidney dialysis, and chemotherapy.

Health insurers are using incorrect and outdated ideas about the nature and causes of mental illness to deny millions of Americans essential health care and maximize their profits.

Thirty-four States already have mental health parity laws on the books, but the laws vary widely. Many cover only a handful of illnesses, and they cannot cover large, multistate employers or employers who self-insure. Only a Federal law can guarantee real mental health parity for all Americans.

Last October, on the first anniversary of the plane crash that killed Paul and Sheila, their daughter Marcia and four others, I asked unanimous consent that the Senate take up and pass the Wellstone Mental Health Equitable Treatment Act. It would have been a perfect tribute to Paul.

The Republican leadership blocked that request, but they gave us their word that the Senate would consider the Wellstone mental health bill early this year. We are now closing in on the Memorial Day recess. Time is fast running out on this Congress, too. We have been waiting months now to see a proposed amendment from Senator GREGG and the scope of the bill.

On June 10, people are coming to Washington from all over America for a mental health rally to urge passage of the Wellstone bill.

Two years ago in New Mexico, the President said he would work with Congress to help press a mental health parity bill. The true test of the President's leadership is not what the President says; it is his ability to convince Republican leaders in the House and Senate to allow votes on the bill.

Congress can pass this bill quickly, if the President will help. We cannot do this alone; we need his help. What we cannot do is allow mental health benefits to be a luxury only for the very wealthy or the very fortunate.

I yield the floor.

Mr. REID. Mr. President, before the Senator yields the floor, I would like to ask him a question through the Chair.

I am happy to hear the statement of the Senator from South Dakota about the need for mental health parity. One part of me is sad because when he mentions the name of Paul Wellstone, that presents to me a void in my life because it seems only yesterday he was back here walking around with his microphone.

He was a champion of many causes. He worked so hard because he knew I was interested in the subject of suicide and what causes it and how we can prevent it.

Even though I know how important this issue is, and we have to do something about it, I feel—like, I am sure, a lot of his friends who served in the Senate with him—a real void whenever his name is mentioned because he truly was one of the most remarkable people I have met in my life.

I applaud and compliment the leader for his statement on mental health parity. For this man, it is long overdue to recognize him being a great Senator.

Mr. DASCHLE. Mr. President, I thank the Senator from Nevada for his eloquent comments regarding our deceased colleague. I share his admiration for our departed colleague. He was

a man who had passion, conviction, and yet a good sense of humor that allowed that passion and conviction to be embraced by even those who may not have agreed with him on every issue. But his passion about mental health, his conviction that it was the right thing for us to do, to pass mental health parity, lasts way beyond his life. It is not only in tribute to Paul, but I think in recognition of the appropriateness of his conviction and his passion that we remind our colleagues of the debt we owe to him and to our country in passing meaningful legislation at long last to address this embarrassment and this extraordinary deficiency in society today.

I again thank the Senator from Nevada and yield the floor.

EXHIBIT 1

366 ORGANIZATIONS SUPPORTING THE PAUL WELLSTONE MENTAL HEALTH EQUITABLE TREATMENT ACT

Advocates for Youth, Alaska State Medical Association, Alliance for Aging Research, Alliance for Children and Families, Alliance For Mental Health Consumers Rights, Alzheimer's Association, American Academy of Child and Adolescent Psychiatry, American Academy of Cosmetic Surgery, American Academy of Family Physicians, American Academy of Neurology, American Academy of Ophthalmology, American Academy of Otolaryngology-Head and Neck Surgery, American Academy of Pediatrics, American Academy of Physical Medicine and Rehabilitation, American Academy of Physician Assistants, American Academy of Psyciatry and the Law, American Academy of Sleep Medicine, American Association for Geriatric Psychiatry, American Association for Marriage and Family Therapy, American Association for Psychosocial Rehabilitation.

American Association for Thoracic Surgery, American Association of Children's Residential Centers, American Association of Clinical Endocrinologists, American Association of Pastoral Counselors, American Association of Practicing Psychiatrists, American Association of School Administrators, American Association of Suicidology, American Association on Mental Retardation, American Board of Examiners in Clinical Social Work, American College of Cardiology, American College of Chest Physicians, American College of Emergency Physicians, American College of Medical Genetics, American College of Mental Health Administration, American College of Nurse-Midwives, American College of Obstetricians and Gynecologists, American College of Occupational and Environmental Medicine, American College of Osteopathic Family Physicians, American College of Osteopathic Surgeons, American College of Physicians.

American College of Preventive Medicine, American College of Radiology Association, American College of Surgeons, American Congress of Community Supports and Employment Services (ACCSES), American Counseling Association, American Diabetes Association, American Family Foundation, American Federation of State, County and Municipal Employees, American Federation of Teachers, American Foundation for Suicide Prevention, American Gastroenterological Association, American Geriatrics Society, American Group Psychotherapy Association, American Heart Association, American Hospice Foundation, American Hospital Association, American Humane Association, American Jail Association, American Managed Behavioral Healthcare Association (AMBHA), American Medical Association.

American Medical Directors Association, American Medical Group Association, American Medical Rehabilitation Providers Association, American Medical Student Association, American Mental Health Counselors Association, American Music Therapy Association, American Network of Community Options and Resources, American Nurses Association, American Occupational Therapy Association, American Orthopaedic Foot and Ankle Society, American Orthopsychiatric Association, American Osteopathic Academy of Orthopedics, American Osteopathic Association, American Pediatric Society, American Political Science Association, American Psychiatric Association, American Psychiatric Nurses Association, American Psychoanalytic Association, American Psychological Association, American Psychotherapy Association.

American Public Health Association, American School Counselor Association, American School Health Association, American Society for Adolescent Psychiatry, American Society for Clinical Pathology, American Society of Addiction Medicine, American Society of Anesthesiologists, American Society of Clinical Oncology, American Society of Clinical Pharmacology, American Society of Plastic Surgeons, American Therapeutic Recreation Association, American Thoracic Society, America's Health Together, Anna Westin Foundation, Anorexia Nervosa and Related Eating Disorders, Inc., Anxiety Disorders Association of America, Arizona Medical Association, Arkansas Medical Society, Association for the Advancement of Psychology, Association for Ambulatory Behavioral Healthcare.

Association for Clinical Pastoral Education, Inc., Association for Science in Autism Treatment, Association of American Medical Colleges, Association of Asian Pacific Community Health Organizations, Association of Jewish Aging Services of North America, Association of Jewish Family & Children's Agencies, Association of Maternal and Child Health Programs, Association of Medical School Pediatric Department Chairs, Association of Orthopaedic Foot and Ankle Surgeons, Association of University Centers on Disabilities, Association to Benefit Children, Attention Deficit Disorders Association, Autism Society of America, Barbara Schneider Foundation, Bazelon Center for Mental Health Law, Brain Injury Association of America, Inc., California Medical Association, Camp Fire USA, The Carter Center, Catholic Charities USA.

Center for the Advancement of Health, Center for Women Policy Studies, Center on Disability and Health, Center on Juvenile and Criminal Justice, Central Conference of American Rabbis, Chicago Public Schools, Child & Adolescent Bipolar Foundation, Child Neurology Society, Children and Adults with Attention-Deficit/Hyperactivity Disorder, Children's Defense Fund, Children's Healthcare Is a Legal Duty, Children's Hospital Boston, Child Welfare League of America, Christopher Reeve Paralysis Foundation, Church of the Brethren Washington Office, Clinical Social Work Federation, Coalition for Juvenile Justice, College of Psychiatric and Neurologic Pharmacists, Colorado Medical Society, Commission on Social Action of Reform Judaism.

Connecticut State Medical Society, Corporation for the Advancement of Psychiatry, Council for Exceptional Children, Council of State Administrators of Vocational Rehabilitation, Council on Social Work Education, County of Santa Clara, CA, Cure Autism Now, Dads and Daughters, Depression and Bipolar Support Alliance, Disability Rights Education and Defense Fund, Inc., Disability Service Providers of America, Disabled American Veterans, Division for Learning Disabilities (DLD) of the Council for Exceptional Children, Easter Seals, Eating Disorders Coalition for Research, Policy & Action, Employee Assistance Professionals Association, Epilepsy Foundation, Families For Depression Awareness, Families USA, Family Violence Prevention Fund, Family Voices, Federation of American Hospitals.

Federation of Behavioral, Psychological & Cognitive Sciences, Federation of Families for Children's Mental Health, Florida Medical Association, Freedom From Fear, Friends Committee on National Legislation (Quaker), Harvard Eating Disorders Center, Hawaii Medical Association, Human Rights Campaign, Idaho Medical Association, Illinois State Medical Society, Inclusion Research Institute, Indiana State Medical Association, Institute for the Advancement of Social Work Research, International Association of Jewish Vocational Services, International Association of Psychosocial Rehabilitation Services, International Community Corrections Association, International Dyslexia Association, International Society of Psychiatric-Mental Health Nurses, International Spinal Injection Society, Iowa Medical Society.

Iris Alliance Fund, Jewish Federation of Metropolitan Chicago, Johnson Institute, Joint Council of Allergy, Asthma and Immunology, Kentucky Medical Association, Kids Project, Kristen Watt Foundation for Eating Disorder Awareness, Latino Behavioral Health Association, Learning Disabilities Association of America, Legal Action Center, Louisiana State Medical Society, Lutheran Ofc. for Governmental Affairs, Evangelical Lutheran Church in America, Lutheran Services in America, Maine Medical Association, Massachusetts Medical Society, MedChi, the Maryland State Medical Society, Medical Association of Georgia, Medical Association of the State of Alabama, Medical Group Management Association, Medical Society of Delaware.

Medical Society of the District of Columbia, Medical Society of New Jersey, Medical Society of the State of New York, Medical Society of Virginia, Medicare Rights Center, MentalHealth AMERICA, Inc., Michigan State Medical Society, Minnesota Medical Association, Mississippi State Medical Association, Missouri State Medical Association, Montana Medical Association, NAADAC, The Association for Addiction Professionals, National Advocacy Center of the Sisters of the Good Shepherd, National Alliance for Austism Research, National Alliance for the Mentally Ill, National Alliance for Research on Schizophrenia and Affective Disorders, National Alliance to End Homelessness, National Asian American Pacific Islander Mental Health Association, National Asian Women's Health Organizations, National Assembly of Health and Human Service Organizations.

National Association for the Advancement of Colored People (NAACP), National Association for the Advancement of Orthotics & Prosthetics, National Association for Children's Behavioral Health, National Association for the Dually Diagnosed, National Association for Medical Direction of Respiratory Care, National Association for Rural Mental Health, National Association of Anorexia Nervosa and Associated Disorders—ANAD, National Association of Case Management, National Association of Children's Hospitals, National Association of Community Health Centers, National Association of Counties, National Association of County Behavioral Health Directors, National Association of County and City Health

Officials, National Association of Development Disabilities Councils, National Association of Mental Health Planning & Advisory Councils, National Association of Pediatric Nurse Practitioners, National Association of Protection and Advocacy Systems, National Association of Psychiatric Health Systems, National Association of School Nurses, National Association of School Psychologists.

National Association of Social Workers, National Association of State Directors of Special Education, National Association of State Mental Health Program Directors, National Center for Policy Research for Women & Families, National Center on Institutions and Alternatives, National Coalition Against Domestic Violence, National Coalition for the Homeless, National Coalition of Mental Health Consumers and Professionals, National Committee to Preserve Social Security and Medicare, National Council for Community Behavioral Healthcare, National Council of Jewish Women, National Council of La Raza, National Council on the Aging, National Council on Alcoholism and Drug Dependence, National Council on Family Relations, National Council on Problem Gambling, National Council on Suicide Prevention, National Down Syndrome Congress, National Down Syndrome Society, National Eating Disorders Association.

National Educational Alliance for Borderline Personality Disorder, National Education Association, National Exchange Club Foundation, National Foundation for Depressive Illness, National Health Council, National Health Law Program, National Hispanic Medical Association, National Hopeline Network, National Housing Conference, National Latino Behavioral Health Association, National Law Center on Homelessness & Poverty, National Leadership on African American Behavioral Health, National League of Cities, National Medical Association, National Mental Health Association, National Mental Health Awareness Campaign, National Mental Health Consumers' Self-Help Clearinghouse, National Multiple Sclerosis Society, National Network for Youth, National Organization for Rare Disorders.

National Organization of People of Color Against Suicide, National Organization on Fetal Alcohol Syndrome, National Osteoporosis Foundation, National Partnership for Women and Families, National PTA, National Recreation and Park Association, National Rural Health Association, National Schizophrenia Foundation, National Senior Citizens Law Center, National Therapeutic Recreation Society, National Treatment and Research Advancements Association for Personality Disorder, Native American Counseling Inc., Nebraska Medical Association, NETWORK, a Catholic Social Justice Lobby, Nevada State Medical Association, New Hampshire Medical Society, New Mexico Medical Society, NISH (National Industries for the Severely Handicapped), North american Association of Masters in Psychology, North Carolina Medical Society.

North Dakota Medical Association, Obsessive Compulsive Foundation, Office & Professional Employees International Union, Ohio State Medical Association, Oklahoma State Medical Association, Older Adult Consumer Mental Health Alliance, Oregon Medical Association, Organization of Student Social Workers, Partnership for Recovery, Pennsylvania Medical Society, People For the American Way, People With Disabilities Foundation, Physicians for Social Responsibility, Presbyterian Church (USA), Washington Office, Prevent Child Abuse America, Rebecca Project for Human Rights, Renfrew Center Foundation, Rhode Island Medical Society, Samaritans Suicide Prevention Center, School Social Work Association of America.

Screening for Mental Health, Inc., Service Employees International Union, Shaken Baby Alliance, Sjogren's Syndrome Foundation, Society for Adolescent Medicine, Society for Pediatric Research, Society for Personality Assessment, Society for Public Health Education, Society for Research on Child Development, Society for Social Work Research, Society for Women's Health Research, Society of American Gastrointestinal Endoscopic Surgeons, Society of Medical Consultants to Armed Forces, Society of Professors of Child and Adolescent Psychiatry, Society of Thoracic Surgeons, South Carolina Medical Association, South Dakota State Medical Association, STOP IT NOW!, Suicide Awareness Voice of Education, Suicide Prevention Action Network USA, Tennessee Medical Association.

Texas Medical Association, The Arc of the United States, Title II Community AIDS National Network, Tourette Syndrome Association, Treatment and Research Advancements Association for Personality Disorder, Union of American Hebrew Congregations, Unitarian Universalist Association of Congregations, United Cerebral Palsy Association, United Church of Christ, Justice and Witness Ministry, United Jewish Communities, United Methodist General Board of Church and Society, Utah Medical Association, Vermont Medical Society, Volunteers of America, Washington State Medical Association, Wellstone Action, West Virginia State Medical Association, Wisconsin Medical Society, Working Assets, Women of Reform Judaism, Wyoming Medical Society, Yellow Ribbon Suicide Prevention Program, Youth Law Center.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business up to the hour of 11:30 a.m., with the first half of the time under the control of the Democratic leader or his designee, and the second half of the time under the control of the majority leader or his designee.

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I yield 10 minutes to Senator STABENOW, 10 minutes to Senator MURRAY, 10 minutes to Senator DURBIN, and 10 minutes to Senator WYDEN.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered. The Senator from Michigan is recognized.

MENTAL HEALTH PARITY

Ms. STABENOW. Mr. President, I first wish to commend our leader, Senator DASCHLE, for his wonderful words regarding the need for mental health parity, and also join with both leaders in remembering Senator Paul Wellstone and his advocacy.

Nothing would be more fitting than to pass this long overdue legislation and dedicate it in his name.

HEALTH CARE

Ms. STABENOW. Mr. President, 24 years ago, Ronald Reagan was running for President and he asked each of us as Americans a question: Are you better off than you were 4 years ago?

It was the right question then, and it is the right question now. Are we better off than we were 4 years ago? This is a very important question. Unfortunately, for most middle-income Americans in 2004, the answer is clearly no.

What has happened in the last 4 years while wages have been flat, gas prices, college tuition, health care costs have skyrocketed, millions of jobs have been lost, poverty is on the rise, the budget surplus has been squandered, the Social Security trust fund has been raided, State taxes have risen, household debt has gone way up, consumer confidence has dropped, and the stock market has gone down.

We can look at a few of these areas with average weekly earnings flat at slightly over 1 percent; gas prices certainly in Michigan and around the country skyrocketing, going up and up; college tuition; family health care premiums—these are just three measures of what is happening to our families and what is commonly called the middle-class squeeze where families are not seeing their incomes go up, and yet all of the costs of providing opportunity for their children, of being able to meet the daily costs of living are going up and up.

Today I want to talk specifically about just one of those, and that is the family health care premiums. Since President Bush took office, family health care premiums have risen more than $2,700. The average cost of a family plan is now above $9,000. Workers have to pay about $2,400 of that premium out of their own pockets, in addition to paying deductibles and copays.

That is a tremendous amount of money for most families, especially at a time when they are facing higher costs in so many other areas. Much of this increase has to do with the soaring cost of prescription drugs, which I have come to the Senate floor to speak about on many occasions. The cost of prescription drugs—and this is brand-name drugs—is rising at about three and a half times the rate of inflation. In fact, we know that for some of the top name- brand drugs we see advertised on television every day, they are actually rising anywhere from 8 to 10 to 12 percent faster than the rate of inflation, which is extraordinary.

The health care system and the business community paying the costs of health care premiums cannot continue to absorb that, and the Medicare prescription drug benefit does next to nothing to rein in escalating costs. In fact, researchers have suggested that the new Medicare law will actually result in new profits for the drug companies of $139 billion over the next 8 years.

So here we are supposedly passing a bill to help seniors that one would hope would lower prices, but instead, because it does not allow Medicare to negotiate group discounts, it locks in up to 40 million people forced to pay the highest possible prices in the country,

resulting in $139 billion in new profits over the next 8 years for the pharmaceutical industries and continual struggles for our seniors who literally are choosing between food and medicine.

When President Bush took office, the number of uninsured Americans had actually decreased for 2 straight years. The number of uninsured Americans had actually gone down for 2 straight years. But the dramatic increase in premiums during the Bush administration, combined with the loss of so many jobs, has left 3.8 million more Americans without health insurance. There are now nearly 44 million uninsured Americans, and the consequences are dire for these families and, I would argue, for communities and for businesses as well that end up seeing their health care premium dollars go up every time someone walks into the emergency room sicker than they should be, receiving inappropriate care and having the community hospital have to absorb and transfer that to the folks with insurance.

People without health insurance do not receive the care they need, as I indicated, to prevent or detect or treat serious medical problems. As a result, they are forced to live their lives in poorer health and die younger. Approximately 18,000 people die prematurely each year because they do not have health insurance.

We are the greatest country in the world. Shame on us if we cannot fix this. And we can fix it. It is just a matter of will. It is a matter of values and priorities. We need to turn things around and get this right.

So we come back again to President Reagan's famous question: Are you better off than you were 4 years ago? What has happened in the last 4 years? Again, wages have been flat, if not going down. In my State many folks are losing their jobs, and wages that are being replaced are actually lower. Gas prices are skyrocketing out of sight. College tuition, access to college and the American dream that we all want for our children, has gone up tremendously. Health care costs have skyrocketed, as I mentioned. As a result, our middle-income families are feeling squeezed more and more every day, and Americans are not better off. But we can be better off. We are the United States of America. We are the can-do country, and I know we can get back on track. With a few changes, with the right priorities, with the right values, we can turn this around. We have done it before and we can do it again.

With strong leadership and a real commitment to confronting the problems that families face, we can do better. We can provide our schools and teachers with the support they deserve. We can ensure that every qualified student has the opportunity to attend college. We can build a stronger America so every worker has access to health care and our seniors and the disabled truly have access to their prescription drugs that they need at the lowest possible prices. We can restore the confidence of Americans that our better days are still ahead.

We have much to do. All of these facts, all of these issues, relate to choices, the choices we make as we govern about who we want to make sure is doing better in this country. We can choose between focusing on those things that help Americans, help the public to do better, or the special interests of this country. We need to turn it around so we are putting people first and we are addressing those things that allow each of us to have the opportunity for the great American dream. We are all about working hard, playing by the rules, and being able to go as far as one can possibly go in this great country if they are willing to do the work.

Too many folks are working hard and finding themselves more and more with costs and burdens that are stopping them from being able to fully obtain the American dream for themselves and their families. We are not better off right now, but we can be, and I am hopeful with the right kind of changes that we will be.

The PRESIDING OFFICER. The Senator from Washington.

STATE OF EDUCATION

Mrs. MURRAY. Mr. President, I thank my colleague from Michigan for her excellent statement. I rise today to talk about the state of education in America today, and I want to pose a simple question, as my colleague from Michigan did: Are we better off than we were 4 years ago?

Let us look at the facts. Four years ago, we were making record investments in education. We were giving students, parents, and teachers the tools they needed to succeed. We focused on results and we got them. We focused on our classrooms and improved them. We focused on our students and we helped them on a path to lifetime learning.

Today, we find ourselves in very different circumstances. Today, the focus is on process, not on results. Today, the focus is on centralizing authority instead of the classroom. Instead of focusing on our students, the current administration is simply passing the buck.

During the Clinton administration, we focused on improving the economy and giving every American the tools they needed to succeed. We recorded the longest uninterrupted growth period in our Nation's history, and we helped the American people by getting the education, training, skills, and experience they needed to compete in a global economy. We created 26 million American jobs.

Today, it is a very different story. We are facing dismal budgets, unfunded mandates for our schools, and constant attacks on the programs that disadvantaged families rely on. Instead of helping students, the administration has broken promises and failed to pay the Federal share for education. Let us start by looking at how this administration has underfunded the No Child Left Behind Act and the Individuals with Disabilities Education Act.

We have seen programs that help students turn into unfunded mandates that burden our States. Over the past 4 years, States spent $72 billion to cover the unfunded mandates in IDEA and No Child Left Behind. In my home State of Washington, IDEA is underfunded by $746 million. No Child Left Behind is underfunded by $408 million. That makes a difference in every classroom and in every child's life.

Two years ago, when we passed the No Child Left Behind Act, I voted for it. Most of us in Congress agreed that accountability is important and that we need to make sure our kids are learning the things they need to succeed, like reading, math, writing, and science. But the No Child Left Behind Act said in exchange for that new accountability, schools would get the funding they needed. Today the accountability has been imposed but the funding has not. In fact, Federal funding for the No Child Left Behind Act has fallen $32 billion below the authorized levels since this act was signed into law.

I have visited schools in every corner of Washington State and I know firsthand that educators are working harder than ever to help their students meet these new accountability requirements. But today, as we all know, our State and local budgets are stretched so thin our local communities cannot afford to make up the differences between what our schools were promised and what this administration's budget proposal actually provides.

This year, the President's budget fell $9.4 billion short of fully funding this law. President Bush has proposed the smallest increase for education funding in 9 years and he even proposed eliminating commonsense initiatives like dropout prevention. In Washington State alone, the difference between the President's request and the promise of No Child Left Behind means nearly 28,000 low-income students will be left behind. That number skyrockets to 4.6 million nationwide.

We can do better. That is why in fact I offered an amendment to the Senate budget resolution to fully fund that act. Regrettably my amendment failed on party-line votes.

When we passed the No Child Left Behind Act, Congress and the administration sidestepped the issues affecting our high schools. Our national high school graduation rate is an abysmal 69 percent. That number is even worse for students of color. Do you know roughly half of our minority students are graduating from high school? That means nearly half are dropping out. We need to keep better track of how minority students are doing by tracking dropout rates carefully. But today this Department of Education is not requiring

disaggregation of data on dropouts. That would make it much harder for us to help vulnerable students or even to discover which students need help. With the right policies we can reduce the dropout rate. In fact, that is why last summer I introduced S. 1554, the Pathways for All Students to Succeed, or the PASS Act. This bill will reduce dropouts and help us close that achievement gap.

My bill, the PASS Act, does three things. First of all, it will help students to learn to read and write by providing $1 billion to help our schools hire literacy coaches. Second, my bill ensures our students are taking the classes and getting the support they need to finish high school, and it provides $2 billion for academic and career counselors to ensure all of our students have a personalized plan for completing high school and then going on to college.

Finally, my bill provides extra help to schools that need it the most by providing $500 million in grants to help improve our low-performing schools.

I hope the Senate will pass the bill this year. These are critical steps we could be taking if this Congress were to finally focus on improving the lives of our students.

Let me turn to the Federal role in the Individuals with Disabilities Education Act. Nearly 30 years ago, the Federal Government made a commitment of equal opportunity to our Nation's children with disabilities. With that commitment, again we gave the promise the Federal Government would pay 40 percent of the average per-student cost for every special education student. Today, however, the Federal Government is paying less than 19 percent of the costs. Over the past 4 years of fiscal crisis, Federal funding has fallen $40 billion short of that 40-percent promise. This hole in special education funding not only hurts our disabled students, it also hurts all of their classmates because in order to make up for Federal funding shortfalls, many districts have been forced to take money from their general education budgets and that affects all students.

Over the past couple of years, IDEA has received increases in Federal funding levels. However, according to the Congressional Research Service, at increases of $1 billion each year the Federal Government will never fulfill the promise of funding at 40 percent. And even if increases were $1 billion plus inflation, we would not reach the promised level of 40 percent until 2035. That is another 30 years from now.

Last week the Senate passed a reauthorized version of IDEA. Yet, despite clear support, the Senate did not pass an amendment by Senators HAGEL and HARKIN to fully fund IDEA through mandatory funding.

Education must be a priority for our country if we want a stable economy and a brighter future. We need to focus not only on funding Federal mandates but on access to quality early childhood education and postsecondary education.

This year, Congress is working on reauthorizing the Head Start law. I can tell you as a former preschool teacher, I know firsthand how these critical first early years are for our children's future learning, yet this year the President's budget barely allows Head Start to keep up with inflation. That amount is not nearly enough, especially in a year where we are examining new requirements for this program. Without a substantial increase in funding, these programs will have to shut the door to needy at-risk children who will then fall further behind before they even reach kindergarten.

What troubles me more is this President's clear intention is to end this critical program. We all know proposals to block grant programs will eventually lead to decreased funding for the program. Block granting Head Start is not only supported and pushed by the President but also by the House of Representatives. I know I will continue fighting to protect this very critical Head Start Program that has made such a huge difference in the lives of millions of low-income children.

Public education is the bedrock of our democracy. It helps create good, active citizens and it gives our families the tools they need to put food on the table and a roof over their heads. It also ensures each generation of Americans will have more opportunities than their parents and their grandparents did. There is so much at stake in making sure we are moving education forward for all of America's students.

I turn back to the question I posed at the start of my remarks. Are we better off than we were 4 years ago? Sadly, the answer is no. Our students deserve better. Our country deserves better. I am going to keep fighting here in the Senate to ensure that all of America's children get a good education.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

PRESIDENTIAL LEADERSHIP

Mr. DURBIN. Mr. President, I thank the Senator from Washington for her statement relative to education. I believe the theme, the question she has led off with, is one we will be returning to over and over again.

I know how much the Presiding Officer respects Ronald Reagan and how much he looks back on his Presidency and even candidacy as defining moments in the history of our Nation. President Reagan, despite my differences with him politically, had a way of saying things very directly. He was one of the best communicators we have ever had in the White House. He could, in a few words, convey a message so directly and so simply.

This statement of candidate Reagan is one that is a hallmark now of American politics. Not a campaign goes by that someone doesn't say:

Well, as Ronald Reagan once said, ''Are you better off than you were 4 years ago?''

It is a very simple question. It is a question that must be asked each time the American people face an important election, and this may be one of the most important in history.

What we hear back from the American people when we ask this question is a resounding no. They say in overwhelming numbers, America is going in the wrong direction. We need a new direction in this country. We need a strong leadership that not only protects America but also creates opportunity in America. You have heard repeatedly from my colleague from Michigan how this has a direct impact when it comes to the health care costs of families; how it has a direct impact—the Senator from Washington made this point—when it comes to educational costs. I think honestly what they have said is demonstrated by a few charts I have here.

This is one that I think tells the whole story about the last 4 years of the Bush administration. During this period of time, average weekly earnings for families have gone up 1 percent. President Bush can point to the fact that over 4 years, average income for Americans has barely increased. But what has happened to the expenses faced by Americans in the same period of time? The cost of gasoline, up 25 percent. My friend, Senator WYDEN of Oregon, will address that, as he has time and again on the floor of the Senate in the next part of this morning business time.

Look at the cost of college tuition. It has gone up 28 percent in the 4 years President Bush has been in office; the cost of family health care premiums; some 36 percent.

Now we will take a closer look at the family health care premiums as an illustration. When the President took office, the average health care premium paid on an annual basis was $6,348. Now look at the number: $9,068. The President can send out a check for $100, $200, or $300 and say to middle America: Here is your tax cut; go out and go crazy. Then take a look at this and say: Wait a minute, that tax cut just disappeared. More and more workers and families are paying more and more for health care premiums.

Take a look at this chart. Who really is better off? The average weekly earnings show no increase over the same period of time.

Look at the HMO profits. The profits of the health insurance companies have gone up 50 percent in terms of growth. The CEO compensation for the people who run the HMOs and other corporations is up 61 percent.

Working families, struggling to get by, have seen little or no increase in their income, while those who are profiting from HMOs and from other corporations are doing quite well, thank you.

I remember when Warren Buffett came to say hello to us. He is one of

my favorites. His annual report is a must-read for anyone who follows common sense in American business. Warren Buffett, the second wealthiest man in America, said to some Senators: Many people say our policies are class warfare in America today. He said: I have news for you, my class is winning.

He is right, because, quite honestly, the disparity of income in America is worse than it has ever been. This President, with his tax cuts and his policies, has made it worse.

So 4 years later we go back to the same basic Ronald Reagan question: Are you better off now than you were 4 years ago? The answer, quite honestly, for most working Americans, is a resounding no.

Let me address two particular issues that hit most families. I talked about the increase in college tuition costs. You do not need to remind families that if their son or daughter is lucky enough to get into a good school, they will probably be in a position 4 or 5 years later where they are deeply in debt. I have seen it in my family and many others have seen it in theirs. Young people starting out not only have a challenge of finding a good job and a career opportunity but are challenged by what to do with this mountain of debt.

There was a time when the Federal Government helped. There was a time when we had scholarships and loans and grants to help students along so they would not end up more deeply in debt when they graduate from college than many of us were when we bought our first home many years ago.

Over the course of higher education and its cost, we see the gap between the haves and the have-nots is increasing. Over the course of their career, the difference in income between an 18-year-old high school graduate and a 24-year-old college graduate is now more than a million, so it is certainly worth going to school, but college tuition is out of reach for too many American students.

According to the College Board, the 13-percent inflation-adjusted real increase in tuition at public colleges last year was the highest in 30 years. In my State, it is going up. With the weak economy, with the limited resources coming from Washington, with the struggle that many States are having with this recession, which continues to linger, fewer and fewer dollars go into State treasuries and fewer and fewer dollars go from those treasuries to colleges and universities, so they raise tuition.

We are in a recession, losing jobs. Real income is going down and the cost of education is going up. That is a fact. Private school tuition has gone up even higher. Federal assistance has fallen far behind.

In the 1970s, the maximum Pell grant for low-income and working-class families covered about 40 percent of the average cost of going to school. In the 1970s, Pell grants and others helped cover 40 percent. Today, it covers 15 percent. So even the most deserving students from low-income families find the Federal programs are a shadow of what they used to be. They do not provide them the help they need. That means that 48 percent of low-income high school graduates who qualify for college do not go to a 4-year school because they simply do not have the money.

From 1987 to 1999, completion rates on college prep courses for the Nation's poorest students grew by 20 percent. So it means more students are ready for school; they just cannot afford to go to school.

When you look at what we have done on a Federal level time and again, this administration has not provided the helping hand to college students and their families. This President proposed to freeze Pell grants at $4,050 a year for the third year in a row, even though we know the cost of education continues to go up in a double-digit pace. His budget calls for a $823 million increase that merely holds the line on existing grant award levels. He proposes to freeze campus-based aid, cut Perkins loans, and eliminate the LEAP grants. In total, 78,000 students in America will lose grants because of the Bush budget policies, meaning the cost of education is higher and the helping hand from the Federal Government is not going to be there.

Are those families better off today than they were 4 years ago? Is the Bush policy, the budget policy on financing and education, for struggling students, from lower income families, better than it was 4 years ago? By almost every measure, the answer is a resounding no.

We need to get our priorities straight in this country. If we are going to have an American century in the 21st century, as we did in the 20th century, we better focus on students and education. We better make sure that deserving students who want to realize the American dream, many of them the first in their family to be able to go to college, have that chance. They cannot have a chance when the college education has been priced at a level where they cannot afford it, or even worse, graduating with heavy debt. Many of these students cannot pursue the career choice they really want.

How many students graduate wanting to be teachers, good teachers in grade schools and high schools, will be able to realize that dream if they face a mountain of debt? Starting off as a high school or grade school teacher at $30,000 a year, with a pretty limited take home pay, is almost impossible if you have to pay back a mountain of student loans in the process. So they try other things that might make more money and we lose the teacher we need to inspire the next generation.

So when the President makes a decision on budgets to cut back in helping students pay for a college education, it has a ripple effect all the way down the line in terms of new jobs and opportunity, in terms of tomorrow's teachers and nurses, in terms of those who we need to make America the strong nation it needs to be.

Let me also address an issue which is hitting Americans in the pocketbook. Take a look at what has happened to the price of gasoline between when President Bush took office and what it is today. A gallon was $1.47 in 2001 when President Bush came to office. Now it is up to an average of $2.01.

Now look at what is happening with the oil companies that are selling the gasoline. It has been a pretty good year for the oil companies. If you think you are getting pinched at the pump, take a look at what is happening here: For British Petroleum, a 165-percent profit increase; Chevron Texaco, 294 percent; ConcoPhilips—what has happened here—only a 44-percent profit increase. They are falling behind; Exxon Mobil, 125 percent.

Take a look at gas prices in the city of Chicago, which I am proud to represent. They are well over $2 a gallon in downtown Chicago. In California, I understand they are bumping up against $3 a gallon.

So you ask yourself: What can we do?

First—and Senator WYDEN will spend some time on this issue—why are we filling this Strategic Petroleum Reserve at a faster clip now than ever when the price of petroleum that we are putting into it is at record levels? The second question I need to ask, obviously, is, When is this President going to confront these oil companies about their record profits at the expense of families and businesses? The third and obvious question is, Candidate Bush, candidate George W. Bush, said if he ever faced this, he would get on the phone to OPEC and tell them to stop squeezing American consumers and families and businesses. I guess the telephone line is dead between the White House and Riyadh. He is not calling Saudi Arabia to tell them they have to release more oil to the United States. The President as candidate said he would do it. The President as President refuses to do it. Why? Haven't we done enough for the Middle Eastern nations and the OPEC countries, putting hundreds of thousands of American lives at risk for stability and security in the Middle East? And the President will not pick up the phone to say to them, for goodness' sake, you put our economy at risk when you hold back oil. And that is exactly what they are doing. We need Presidential leadership.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Oregon.

GASOLINE PRICING

Mr. WYDEN. Mr. President, I have come to the Senate floor this morning to state, in accord with my policy of publicly announcing any hold that I

place on a nominee or a piece of legislation, that I will object to any unanimous consent request for the Senate to take up the President's nominee, Deborah Majoras, to head the Federal Trade Commission.

Gasoline pricing is, of course, one of the most important consumer protection issues that the Federal Trade Commission is responsible for overseeing. The prices for gasoline, of course, are soaring. For years now, the Federal Trade Commission has been waging a campaign of inaction. In three specific areas—increased oil company mergers, refinery shutdowns, and anti-competitive practices—the Federal Trade Commission has simply been AWOL.

Yesterday, after writing to Ms. Majoras, to make sure she knew specifically of my concerns, I met with the nominee to head the Federal Trade Commission. I asked repeatedly if there was even one area—even one area—where she would change existing Federal Trade Commission policy with respect to these practices that are sucking the competitive juices out of gasoline markets across the country. During that conversation not even one example was given of an area that the nominee to head the Federal Trade Commission would change in the gasoline pricing area. It is for that reason that I publicly state today that I am placing a hold on this nominee.

To me, it is absolutely unacceptable for a nominee to chair the Federal Trade Commission to not want to make one specific change in gasoline pricing policy. It is certainly unacceptable to me as a Senator from a State where the average price of gas is now $2.25 a gallon, but it ought to be unacceptable to Senators from every area of the country.

Here are three examples of the record at the Federal Trade Commission that I wish to change:

First, since taking office, the Bush administration has allowed 33 oil industry mergers, totaling $19.5 billion to go through. Not only has the administration not tried to block any of these mergers, they simply have taken a pass in every respect. To be fair, the Clinton Administration also sat on its hands allowing 21 oil mergers to go through while challenging only one.

The Bloomberg News service recently reported on this issue. It is my own view that unchecked oil company mergers are a significant factor in the rising price of gasoline in the country. But the Federal Trade Commission, in the face of this huge wave of mergers, has simply been sitting on their hands, and yesterday, the nominee to head the Federal Trade Commission gave me no indication there would be a change in the policy of the Federal Trade Commission on the merger issue.

Second, a handful of refiners now control most of the gasoline in our markets. The concentration is especially serious on the west and east coasts. Mr. President, 67 percent of the west coast market and 77 percent of the east coast market is controlled by a handful of refiners—just four companies. Along with this increased concentration of refiners, we have seen a drop in the number of refineries at a critical time when clearly we need more refinery capacity, not less.

Now, I have documented evidence—it is up on my Web site—that refinery shutdowns have been implemented not because of competition but to boost profit. Certainly, in my view, the nominee to head the Federal Trade Commission ought to be looking at this issue of refinery capacity. But yet again, the nominee that I met with yesterday was unwilling to state what, if anything, would change with respect to refinery practices.

Third, the Federal Trade Commission has been unwilling to move against anti-competitive practices that the agency has even documented. Here I am talking about redlining, a tool that is used to wall off a community from competition. So, again, as we have seen in the case of oil company mergers, as we have seen in the case of refinery shutdowns, in this third area, anti-competitive practices such as redlining, the Federal Trade Commission is going to stay on the sidelines, apparently, with a new chair.

Most recently, the Federal Trade Commission, through their general counsel, has essentially said that oil companies can price gouge with impunity. It is an extraordinary statement. It was made in the Bloomberg News service, again. But the general counsel of the Federal Trade Commission has basically said oil companies can do whatever they want. They can move unilaterally, raise prices to essentially any level they would want in certain markets.

So this is what I am concerned about: these questions that are specifically under the jurisdiction of the Federal Trade Commission with respect to mergers, with respect to refinery shutdowns, with respect to anti-competitive practices, such as redlining.

I had hoped that the nominee to chair the agency would be willing to make changes. I provided the nominee in advance—in advance of our meeting—the key questions that I went through with her. Yet, despite that, and despite the fact that I asked for even one example of a policy she would change at the Federal Trade Commission, I was given nothing to indicate that the nominee to head the Federal Trade Commission would buck the pernicious trend across this country that is draining the competition out of gasoline markets across America.

For example, I asked Ms. Majoras about the Federal Trade Commission's lack of response to letters I have sent to the Chair requesting the Federal Trade Commission to investigate Shell Oil's plan to close a 70,000-barrel-per-day refinery in Bakersfield, CA. The Federal Trade Commission sent me a two-paragraph response saying they would seriously consider it.

This is an enormously important issue for those of us on the west coast. I see my friend from Nevada on the Senate floor, who has been eloquent with respect to trying to stand up for the consumer on the gasoline issue. The Presiding Officer, who I have the privilege of serving with, has been long concerned about gasoline prices. This Bakersfield shutdown will have enormous and negative ramifications for the people on the west coast.

But while I have heard repeatedly from the agency—and I heard yesterday from the nominee that this ''sounds like a serious issue''—there was no commitment, none, just like the current FTC Chair, to take any specific action. In addition, the nominee pointed out there may even be a potential conflict of interest with respect to the Bakersfield shutdown because of her current law firm responsibilities and the fact that her current firm represents Chevron.

So, Mr. President, I will say, as I have done in the past, that I am going to keep my door open. I am hopeful, in the course of hearings and debates about the future direction of the Federal Trade Commission, that the nominee will shift course from what I heard yesterday. But I will tell you, it is not enough for the agency to continue to say they are ''seriously concerned'' or they are ''monitoring the situation'' or ''they are troubled by the high prices our constituents are paying.'' That is not enough.

When people up and down the west coast of the United States and across the country are getting shellacked by these gasoline prices, in effect, we are seeing consumers clobbered at the pump with dollars from their own pockets, and then taxpayer dollars are used to fill the Strategic Petroleum Reserve at record prices when it is essentially filled.

We need some changes, and we need changes at the top with respect to gasoline pricing policy in this country. That means the Federal Trade Commission has to get off the sidelines. They have to zero in on the three specific areas I mentioned this morning: oil company mergers; refinery shutdowns; and anti-competitive practices, such as redlining.

For far too many years, Federal Trade Commission political appointees have sat on their hands while the anti-competitive practices of the oil industry gouge American consumers at the gas pump. I have given Ms. Majoras a number of opportunities to explain to me what she plans to do differently as a Commissioner, and she has made it abundantly clear that she has no specific plan to energize the FTC to begin fighting for consumers. I don't intend to allow yet another FTC Commissioner collect a $145,00 salary to do nothing while unnaturally high gas prices jeopardize American jobs and American families.

It is my intention to continue to object to Senate consideration of the

nominee to head the Federal Trade Commission until that agency is willing to tell the people of our State and the people of this country that there are going to be some changes and there is going to be some competition again in the gasoline markets of our country.

Mr. President, I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, how much time remains on the side of the minority?

The PRESIDING OFFICER. There is 3½ minutes.

Mr. REID. Mr. President, we are going to go to the bioshield bill at 11:30. The majority has 45 minutes. We are not going to vote on that until 2 o'clock, anyway. I ask unanimous consent that I be allowed an extra 5 minutes and that the majority also be given 5 minutes.

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

ENERGY

Mr. REID. Mr. President, we have people from the majority coming out here occasionally talking about how important it would be to pass an energy bill. I listened to the President's press secretary yesterday saying: Well, the reason we are not having lower gas prices is because the Democrats won't help with the Energy bill.

This is simply talk. It has absolutely has no merit. All we need to look at is what the administration itself says about the Energy bill. The Department of Energy's Energy Information Administration studied this question and concludes the legislation's incentives to reduce our reliance on foreign oil sources will have a negligible success. The report, prepared by the administration for a Republican Senator, states:

> On a fuel-specific basis, proposals in the [conference report] including changes to production, consumption, imports, and prices are deemed to be negligible.

The bill won't address our energy needs in the future. It won't protect middle-class families who are being gouged with the gas prices we see today. Nevada has the second or third highest gas prices in the country. Gas prices across the Nation have reached alarming levels, especially in Nevada and California. A regular, unleaded gallon of gasoline costs $2.22 in Las Vegas, $2.29 in Reno, while higher blend fuels are at about $2.50 a gallon. I have to say, this was written on Monday. This is 2 days later. I don't know what it is today. But it has gone up.

Since the first of the year, the price of gasoline has increased more than 58 cents a gallon in Nevada. There is no doubt the price of crude oil has contributed to higher gasoline prices, but this outrageous 58-cent increase in Nevada since January has not been driven by the rising cost of crude oil but by corporate greed and the never-ending quest for profits, no matter what it does to the consumer.

Big oil companies and refiners are getting rich. Middle-class families are getting gouged. I had in my office last week a wholesale distributor from Las Vegas and Reno. If a service station wants some oil products, gasoline, that is where they get it. These companies are going broke because they can't pay for the huge cost of fuel. The markup they get is 2 or 3 cents a gallon. They make 2 or 3 cents a gallon on the fuel they sell. So it is not the service station operators making the money. It is not the person who gives them the fuel. It is the big suppliers. Big oil companies and refiners are getting rich. Middle-class families are getting gouged.

I am not making this up. It is documented. Refiner margins have doubled and tripled. Oil companies weren't content to make 25 cents for every gallon of gasoline.

They now make up to 75 cents for every gallon of gasoline sold.

Look at this. Who is better off? Oil companies report record profit increases. British Petroleum did OK last year, a 165-percent increase in their profits. Chevron-Texaco are the record holders, a 294-percent profit. Exxon-Mobil, a 125-percent profit. Conoco-Phillips, I don't know what happened to this company; they only made a 44-percent increase in profit last year. That is all. Conoco-Phillips is down at the bottom. They made a profit before, but now they had an additional 44-percent increase in profit. I repeat, British Petroleum had a 165-percent increase in profit compared to the previous year; Chevron, a 294-percent increase in profit compared to the preceding year; and Exxon-Mobil, a 125-percent increase in profit. I am not making this up. These companies are gouging.

We have all received letters from our constituents. I have received them from Nevadans whose budgets are stretched. They have to make a choice between food, a place to live, and medicine. This is the way it is. It is too bad. Gasoline is not a luxury; it is a necessity. Families have to put gas in their vehicles so they can drive to work, take the children to school, and go to the grocery store.

Big oil companies control it all. British Petroleum, Chevron-Texaco, Conoco-Phillips, Exxon-Mobil, they make the money. And as long as they can show their shareholders they are doing great, it doesn't matter what is happening to the country or the people who work for these companies. They control the supply. They know families have little choice in the matter. They literally have consumers over a barrel of oil.

While consumers are paying record prices, the oil companies are reaping record profits. These profits are outrageous. I believe in the free enterprise system, but if you carry this to its extreme, there isn't much left for the consumer.

Major California refineries owned by Valero and Tesoro that supply the Las Vegas-Reno area have reported record profits and project even bigger gains in the months ahead. Record profits for big oil; record prices for American families.

I have asked the Federal Trade Commission to stop this price gouging, but they won't act. The FTC continues to study the problem while gas prices skyrocket. We all agree something must be done. It is a simple fact that we can't drill our way out of the problem. We are sitting on less than 3 percent of the oil reserves of the world. This includes ANWR. We consume 25 percent of the oil that is produced, and 97-plus percent of the oil reserves in the world are someplace else.

We need to find an innovative new solution, but this administration's energy policy is stuck in the past. It is slanted toward big oil and special interests generally. This is a policy that was hatched in secret 3 years ago by the Vice President's energy task force. This is the task force that refuses to produce the records of who met, where they met, what they talked about. This has gone to court. They have stalled it for almost 4 years.

This past Sunday the Washington Post reported on the influence that has been wielded in this administration by the people who raised large amounts of money for President Bush's campaign. One of the four people who organized the entire fundraising apparatus was Donald Evans, a Texas oil man. The article also noted the influence of Enron CEO Ken Lay—''Kenny boy,'' as he was called by the President—who served on the Energy Department transition team and recommended two of the appointees to the five-member Federal Energy Regulatory Commission. Is it any wonder nothing is being done?

When it comes to national energy policy, this administration is taking care of the Enrons, the big oil companies, while middle-class families and other families are gouged. Our Nation must promote the responsible production of oil and gas, but that doesn't mean we should roll back environmental protections of our priceless public lands to allow drilling. Remember, we cannot produce our way out of this problem.

If we allow drilling in ANWR, with all the roads and other support structures that would be required, we would despoil a national treasure for little long-term gain in energy security.

Instead of squandering our children's birthright for a temporary supply of oil, we should do a better job of conserving.

If all our cars, trucks and sport utility vehicles got an average of 27.5 miles per gallon, we would save more oil in 3 years than could be recovered economically from the entire Arctic National Wildlife Refuge.

I know we can do it because we did it once before.

After the 1973 Arab oil embargo, when Americans were forced to wait in

long lines to buy gasoline, we realized that our dependence on oil from the Middle East was compromising our national security.

So we dedicated ourselves to building vehicles that were more fuel-efficient. And by 1990, the average American vehicle got 40 percent more miles per gallon than in 1973.

That is an American success story, a triumph of good old American ingenuity.

We need to redouble our efforts to conserve oil.

We also need the President to stop filling the Strategic Petroleum Reserve.

It is more than 90 percent full. How much is enough?

There have been two major releases of oil from the SPR. Crude oil prices fell sharply each time.

The first SPR release occurred as the U.S. began bombing Iraq on January 16, 1991. The next day crude oil prices fell from $32 to $21 per barrel.

The second release occurred in September 2000. Crude oil prices immediately fell from $37 to $31 per barrel after this release was announced.

The President also needs to pressure OPEC to significantly increase its production quotas to lower the price of oil on world markets.

These are some immediate steps we can take to help middle class families.

But to meet our energy needs over the long term, we need an energy policy that looks to the future.

I have already talked about the need to conserve oil.

Conserving would protect consumers, and it would make our country stronger.

Thomas Friedman, who covers the Middle East for the New York Times, wrote last week that we must renew our efforts to free ourselves from our dependence on oil from that region.

He suggested an effort modeled after the Manhattan Project. That, of course, was our extraordinary race to develop a nuclear weapon during World War II.

The Manhattan Project was a success. It helped keep the world free.

And we can do it again.

We are going to be spending a lot of time this week talking about national defense, about ways to make our country stronger.

Well, we can make our country stronger by finding an efficient and environmentally sound way to produce hydrogen fuel.

We can find a way to produce hydrogen fuel by harnessing our abundant renewable energy sources—the power of the wind, the warmth of the sun, and the heat within the earth.

We need to break this bill apart and extract what is good.

Let's take elements of this energy legislation that enjoy broad, bipartisan support, and move them forward to the President's desk.

I was encouraged that the FSC/ETI bill passed by the Senate last week contains the Energy Tax Incentives.

I applaud Senators GRASSLEY, BAUCUS, and DOMENICI for the provision that expands and extends the production tax credit for wind, geothermal, solar, and biomass energy.

The FSC/ETI bill also guarantees a commodity floor price for the Alaskan Natural Gas Pipeline.

I strongly support a price floor and loan guarantees to build an Alaska Natural Gas Pipeline, but this supply won't enter the market for another 10 years.

Senator CANTWELL has introduced a standalone bipartisan bill to improve the reliability of our Nation's electric transmission system.

This bill is noncontroversial and can pass both Houses of Congress.

We can pass meaningful parts of this energy legislation, and begin to implement a strategy that looks toward the future.

We need to act now.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, can the Chair advise where we are in the business of the Senate?

The PRESIDING OFFICER. We are in morning business.

MOVING AMERICA FORWARD

Mr. COLEMAN. Mr. President, I want to spend time talking about the Defense authorization bill. Before I do, I want to respond to this question, are we better off? I think it is a good question.

But the question has to be phrased: Are we better off today than we were after the impact of September 11? My colleagues across the aisle continually block out of their minds the impact of the devastating attack on American soil of September 11 and the challenges this country faced—both emotional, from the scars of the terrible loss of life, as well as the economic impact. That is the question.

Are we better off today with the Taliban not operating freely in Afghanistan? Are we better off today with Saddam Hussein no longer supporting Hamas and Hezbollah, no longer operating the torture and rape chambers?

Are we better off today fighting terrorism in Iraq rather than again back on our shores? Are we better off economically?

Mr. President, I have in front of me an article in today's Minneapolis Star Tribune, and I will refer to a couple sections. It says, in April, Minnesota broke all kinds of job records, led by the State's largest drop in unemployment, to 4.1 percent from 4.8 percent. Economists used words such as ''spectacular'' and ''breathless'' to describe the job gains they say were part of the national turnaround.

The U.S. economy added 625,000 jobs in March and April, a turnaround, I note, that was fueled by tax cuts, was fueled by bonus depreciation, was fueled by increasing expansion, fueled by lowering the top rate to give small business a tax break. The article notes that the 0.7-percent drop in the unemployment rate was the biggest since the State started keeping records in the late 1970s.

Are we better off economically today than we were after the impact of 9/11? Absolutely. With the $18,000 job decline and the number of unemployed people, also going back to the 1970s, that was 13 percent fewer than the 140,000 unemployed in March. The 4,500 new manufacturing jobs is the biggest monthly increase since the State started tracking the statistic in 1992.

Are we better off today, post-9/11, than we were right after that attack? Absolutely. Completing Tuesday's figures, success in more hiring suggests fewer firings. New unemployment claims dropped 14.1 percent in April. They talk about in this article the manufacturing sector.

We would be better off if we didn't have the other side filibustering an energy bill. We would grow more jobs. We would be better off if my colleagues on the other side were not blocking asbestos reform, if my colleagues were not blocking class action reform, so that we could grow more jobs. We would be better off if my colleagues on the other side were not blocking the appointing of conferees to the highway bill. That is a jobs bill. Have we moved forward? Absolutely. Have we recovered from 9/11? Absolutely. But rather than criticize, my colleagues should come together and stop the obstruction and blocking and let's move America forward.

DEPARTMENT OF DEFENSE AUTHORIZATION

Mr. COLEMAN. Mr. President, we spend a fair amount of time on this floor discussing priorities for our people and our Government. As far as I am concerned, all that talk is about what comes in second to the subject we are on today: national security.

Our first obligation is to defend the American people and our interests abroad. If we don't do that with thoroughness and excellence, nothing else is going to matter for long.

September 11 was a tragic day. It was also the end of a period of denial. For generations, we believed that we could sit here safely, protected by our oceans. But 2 world wars in the last century and the coming of the nuclear age changed that. But when the Berlin Wall fell down and the Soviet Union collapsed, perhaps some lapsed into a false sense of security. September 11th changed that forever.

This bill—the Defense authorization bill—is an attempt to respond to the defense of American interests in the world as it is, now and for the foreseeable future. Failure to be prepared invites the threats we fear. Peace through strength must remain the governing doctrine of American national security.

I support the work of the Chairman, Senator WARNER, on this bill. What a

tremendous asset it is to the Senate and Nation to have his expertise and experience. The fact that he served at the Pentagon, and has participated in this bill through numerous administrations gives us confidence in this work product.

It has been said that the key to leadership is maintaining order in the midst of change, and change in the midst of order. With the distinguished Chairman, we have that balance.

Mr. President, for a moment, I want to discuss recent developments in Iraq.

You would never try to time a foot race with a sun dial. Likewise, it makes no sense to judge the progress of the war in Iraq by the top of the hour news.

We are at war. That is a sentence fraught with meaning. War is by definition unpredictable. It involves a struggle against a dedicated foe, and constantly shifting conditions. Depending on your point of view, a single event for one part will be an ''ebb'', while for another it is a ''flow.'' With a short term perspective, you never know whether something is a trend or an isolated, irrelevant occurrence.

One of the lessons we learned from the Vietnam era is that when the United States of America commits troops to battle, we should only do so if we are committed and confident of victory. The angst of so many Vietnam veterans is not the sacrifice they were called to make, but the betrayal of their cause and the anger of the American people at them for doing what their country asked them to do.

The decision to go to war in Iraq was not a snap judgment. It was thoroughly debated here on this floor. The vote to authorize the use of force was not unanimous, but it was bipartisan. We crossed a threshold when we made that decision, and when combat began.

A decision to go to war is not a stock you buy or sell depending on how it is doing. We are in this war until we finish it successfully.

Is there room for debate on how the war is to be conducted? Certainly. But only to a point. We don't need 535 commanders in chief.

In a world of instantaneous global communication, we need to be very sensitive to what we say on the public record, and how our words can be interpreted by those who wish to destroy us. War is a matter of armaments and troops and battle plans. But is also a matter of psychology and spirit. We should be very careful not to encourage our enemies. When Congressman MURTHA made his comments last week, I vehemently disagreed with them. This war is certainly ''winnable'' but if insurgents heard his words, it was harder to win than before he spoke.

I reiterate that it would be foolish to try to run this war based on public opinion. We have no General Gallup Poll. The circumstances we have learned about Abu Ghraib are very disturbing to us all. Looking at the polls, it had a short term effect on support for the war effort. But we must maintain the perspective that these are actions we are ashamed of and are working to prevent from ever re-occurring. Compare that to the villains who beheaded Mr. Berg. They reveled in the act of his murder. It was a picture of what we are there to fight against.

Progress is being made. The influential Shia cleric Al-Sistani has called for people like Al Sadr to lay down their arms.

The President has made it clear what to expect as the June 30 deadline approaches. Terrorists like Al Zarqawi know what the prospect of a free Iraq means, and they will do anything to stop it. We cannot let them succeed. We need to be more committed to our noble ideals than the terrorists are to their evil plans. Despite all the attempts to distract us or deter us, we need to stay focused on the transition to Iraqi sovereignty. If we fail, the fall out will be far worse than that from an artillery shell filled with sarin gas.

Mr. President, our history tells us that war is hell. But it also tells us that there are some things worth fighting for.

The battle is engaged. The war on terrorism is being fought in Baghdad, in the Sunni Triangle, not here. Better to fight the battle there than here. Have no doubt, if we were not fighting it there, it would be fought right here. Its poison and death would spew forth upon us.

Removing Saddam Hussein from the world stage was worth fighting for. Freeing the people of Iraq from tyranny and deprivation is worth fighting for. Planting an Arab democracy in the Middle East is an historic opportunity for freedom in this world.

We are committed, Mr. President. Our only option is to persevere to victory. With all people, I hope and pray it will be soon.

I thank the committee for the bill they have brought here to the Senate floor to give the President the tools he needs to protect our security. I look forward to our consideration and passage of it.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

THE COMMANDER'S EMERGENCY RESPONSE PROGRAM

Mr. STEVENS. Mr. President, I come to the floor of the Senate today to share with my colleagues and the American people a genuine success story coming out of Iraq. It is a story that demonstrates how American ingenuity, coupled with common sense and commitment, is leading to immediate, visible and valuable improvements in the lives of the Iraqi people.

I am speaking of the Commander's Emergency Response Program. This is a program that allows our troops on the ground to fund low-cost, high-impact humanitarian and small reconstruction projects that benefit the quality of life of the Iraqi people and contribute to our country's stabilization efforts in Iraq.

The Commander's Emergency Response Program, or CERP, is a program that has generated significant success and one that deserves to be told and told and told.

With the wave of bad news coming out of Iraq in recent weeks, it is easy to lose sight of the progress we have made in that country and of the many accomplishments our Armed Forces have already reached.

Our men and women in uniform have performed magnificently, and the Commander's Emergency Response Program gives them a tool to fund small-scale projects that have an immediate, visible, and high-value impact on the lives of the Iraqi people. We are literally talking about repairing homes, painting schools, restocking hospitals, and restoring freshwater supplies to villages. No project is too small; no task is too trivial.

To date, our commanders on the ground have spent over $250 million through the Commander's Emergency Response Program, funding over 21,000 projects at an average cost of less than $7,000. That is right, $7,000.

Our local commanders have used the CERP to reopen hospitals and clinics all across Iraq to administer over 22 million vaccinations. They have distributed new textbooks to 5.9 million students who are attending school, some for the first time. Our commanders have funded over 1,000 water and sewer projects, bringing clean water to farmers and to villages.

In Rutba, CERP funds were used for electrical and plumbing repairs to the local youth center. The repairs, which cost less than $9,000, were completed within 10 days.

In Baghdad, the 30th Medical Brigade used the CERP funds to purchase inspection equipment for seven slaughterhouses.

The list of small, yet meaningful, projects could go on and on. Most importantly, the CERP lets our troops act quickly without becoming entangled in redtape or bureaucracy.

Individually, these small-scale projects contribute to the improvement in the daily lives of Iraqi citizens step by step. Collectively, these thousands of projects become something larger, like pieces of a puzzle that join together to reveal a larger picture—a good picture.

Collectively, these projects illustrate the concern of the U.S. military for the Iraqi people, the commitment that our men and women in uniform bring to improving the lives of Iraqis every single day, and the creativity in our approach to ensuring security and stability in Iraq.

We do not read much about these kinds of activities, but collectively these projects give our troops on the ground an opportunity to reach out to Iraqi citizens and to build a bond of mutual trust and good will.

BG David Blackledge, the commander of the 352nd Civil Affairs Command in Iraq, said one of the reasons

the Commander's Emergency Response Program has been so successful is that it is administered by the local battalion or brigade commander on the ground who is living and interacting with the citizens of his or her area of responsibility on a daily basis.

Who can better identify the immediate needs that can be addressed through low-cost, high-impact projects than the soldiers right there on the ground?

With all due respect for the policy people here in Washington, they cannot see the potholes in the roads, they cannot see the dilapidated buildings and infrastructure that has degenerated for years under the tyrannical dictatorship of Saddam Hussein. Our troops on the ground see these obstacles every day, and the Commander's Emergency Response Program lets them address these problems immediately and effectively with the cooperation and assistance of the Iraqi people.

Let me be clear—very clear: In most cases, the actual work is done by Iraqis themselves, so that in addition to yielding immediate and visible results, projects funded from the CERP provide jobs to Iraqis who are eager to rebuild their country and to stimulate the Iraqi economy.

Some people might be concerned that our commanders are walking around Iraq and Afghanistan with thousands of dollars of cash in their pockets, spending it without congressional oversight. Let me assure those people that is not so. The coalition has instituted strict controls to ensure complete accountability of the funds from the Commander's Emergency Response Program.

The Commander's Emergency Response Program is a low-cost, high-impact program, the effects of which will be felt throughout Iraq. It has been instrumental in gaining the confidence of the Iraqi people and in generating a tremendous amount of good will toward our troops on the ground.

Sometimes all it takes to improve the lives of Iraqi citizens and to build relationships is to repair a door that was damaged in a raid, or to provide a power generator to a factory so its Iraqi employees can get back to work. These are the types of small, yet meaningful, projects our commanders can tackle with the Commander's Emergency Response Program. These projects do not cost much in terms of dollars, but the return is tremendous. It is critical we continue to incorporate this approach into our reconstruction efforts in Iraq. Our commanders need reasonable, sound financial flexibility to match the speed of their operations and the dynamic nature of our battlefields.

The Commander's Emergency Response Program provides our commanders with a flexible tool to respond quickly and decisively to humanitarian problems. If fixing a well quickly solves a local problem and shows a neighborhood the coalition is improving their lives, then that is an important tool for our troops to have.

Initially, this program was funded from seized Iraqi assets. I am proud to say we gave the Department of Defense the authority to continue the Commander's Emergency Response Program in the current fiscal year 2004 supplemental appropriations bill. I look forward to again supporting the Department as we pass the fiscal year 2005 Department of Defense appropriations bill.

I close with a final thought. Our men and women in uniform liberated 25 million Iraqi people in a military campaign with swiftness, precision, and success—success unparalleled in history. We can attribute this success to the foresight and creativity that allowed us to prepare and equip a total force the world has never seen. Now we are applying that same foresight and creativity as we tackle the difficult task of reconstructing and stabilizing Iraq.

The Commander's Emergency Response Program provides visible, high-impact support to the Iraqi people so they can create a foundation for a free and stable society. It is a true success story in Iraq. I am proud of the troops who use it to help the Iraqi people every day, and I am proud to support this very important program.

Kate Kaufer and Sid Ashworth of the Appropriations Subcommittee on Defense prepared these remarks for my presentation.

I thank the Chair. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

PENTAGON RESPONSE TO IRAQI PRISONER ABUSE

Mr. BENNETT. Mr. President, last week, along with a number of my colleagues, I went up into the room on the fourth floor in the Capitol where the Defense Department, the State Department, and the CIA come to brief us on classified information. I sat in a darkened room where we saw a slide show of the photographs that had been taken of Americans inflicting abuse on Iraqi prisoners. The pictures were revolting, they were disgusting, and they left us all with a sense of outrage that this had gone on, outrage that Americans had been involved in anything such as this.

I did not look forward to the experience. Indeed, I made the initial decision not to go. Then I decided: No, if I am going to be involved in examining what is here, I have to see the evidence, as revolting as it may be.

The sense of outrage that I and my colleagues felt about this was shared by all Americans, but in one sector of American society it seems to be even greater than anyplace else. There are some in this society who might not be able to guess what that sector is. But I would say the outrage that has been the strongest has come from those who serve in the American military.

Duty, honor, country—these are the watch words of the American military, and they were violated by those who took those actions in the prison in Baghdad. They did not do their duty. They dishonored the uniforms they wore as they abused those prisoners, and they brought disgrace on the country whose Constitution they had taken an oath to uphold and defend.

The sense of outrage is nationwide, but it is particularly focused among those who have sworn to uphold duty, honor, and country and saw their fellows in uniform violate those principles.

I rise to discuss this today because today is the first court-martial coming as a result of the investigations that have been conducted into this activity. This morning in Baghdad, Army SPC Jeremy Sivits pled guilty, was convicted, and sentenced to a 1-year imprisonment, reduction in rank, and a bad conduct discharge.

Now, there are those in our society who have less faith in the military, who say: These courts-martial are a part of a coverup; this is an attempt to gloss over what has happened; one cannot trust the military to investigate themselves; and we need a whole series of investigations by outside groups.

I believe the facts are that we will find out more what happened from the courts-martial than we would find out from any degree of investigation conducted elsewhere. I offer as a demonstration of the fact that the military can be trusted to act in matters of this kind the following chronology of what has happened with respect to this incident.

We now know that the abuse of the prisoners took place in the last quarter of 2003. We do not know the exact dates, but sometime toward the end of that year the alleged detainee abuse occurred. On January 13, 2004, SPC Joseph Darby opened an e-mail thinking he was going to see pictures that he described as a travelogue; a history of the performance of a particular unit. Instead, what had been downloaded on his computer were the photographs that my colleagues and I saw in room 407 of this building.

Specialist Darby was absolutely stunned. What did he do? Here were his fellow soldiers engaged in activity that was clearly in violation of everything he had been taught, people he wanted to feel close with and identified with, people who, perhaps, were his friends. What would he do? He did his duty, and he provided a CD of the abuse photos to the Army Criminal Investigation Command, or the CID, on January 13, 2004. On January 14, the CID began its investigation—no attempt to cover up. No attempt to hide or turn away from the fact that there was a potential difficulty. They began the next day, and they notified people up the chain of command of what they were doing.

On January 16, just 2 days later, Brigadier General Kimmitt announced that there would be an investigation by

Central Command. It had gone up all that way, that quickly. In just 3 days they were at the top levels of Central Command.

Two days after that, BG Janis Karpinski, who was the commander at Abu Ghraib prison, was admonished and suspended from her command. She was relieved just 2 days after this reached the attention of Central Command.

Additionally, the Abu Ghraib chain of command was suspended, from the battalion commander, a lieutenant colonel, all the way down. Just 2 days after this was brought to the attention of Central Command, the entire group was relieved.

Now, on January 19, a combined joint task force requested that Central Command appoint an investigating officer, and on January 31, Major General Taguba was appointed to conduct the investigation.

On February 10, the Secretary of the Army tasks the inspector general to conduct an analysis of the internment detention policies, practices, and procedures. It goes beyond just the prison: Look at the whole Army and our procedures to see what can be done to prevent this from happening again.

On March 12, General Taguba completed his investigation and briefed the commander of joint task force 7, Lieutenant General Sanchez. Also on March 12, Lieutenant General Helmly, who was the commander of the U.S. Army Reserve Command, directed that Command's inspector general to conduct an assessment of training for Reserve personnel on the issues of detainee treatment, ethics, and leadership to see if the training had broken down in a way that would cause this to happen. All of this was going on—the military acting on its own.

On March 20, the first charges were preferred against six accused and announced by Brigadier General Kimmitt at a press conference. This is not something that got discovered by some investigative reporter digging in behind the scenes. This was something that was announced by the military after they had done a careful examination and moved in a way to protect the rights of every individual.

At that announcement, no names or units were identified so that they would not compromise the due process of those who were being accused.

On April 15, Major General Fay, the Army Deputy Chief of Staff for Intelligence, appointed an investigative officer to examine the circumstances with respect to the 205th Military Intelligence Brigade. That is the group where the commander was relieved within 2 days of discovering that there was an allegation of a problem.

On May 1, Lieutenant General Sanchez issued a memorandum of reprimand to six general officers and one letter of admonition to a member of the 800th Military Police Brigade as recommended by Major General Taguba. This is not something that they passed off to the GIs, the sergeants, the corporals, and the privates. This is something they took care of at the general officer level. Six general officers received a memorandum of reprimand. That is a career-ending experience for a general officer.

Then on May 7, Secretary Rumsfeld announced the independent review panel headed by former Defense Secretary Jim Schlessinger, including retired Air Force General Chuck Horner, former Representative Tillie Fowler, and former Defense Secretary Harold Brown. And then, today, on May 19, the first court-martial has taken place and Specialist Sivits was found guilty and sentenced.

The lesson that comes from this list of actions is a lesson that the world should heed. The lesson for Iraqis and other nations is that this is how democracies handle their problems. This is how Americans face the difficulties that arise when there is a breakdown that occurs within our military. We do not hide it. We do not pretend it did not happen. We do not strive to find excuses. We act in the way consistent with the rule of law.

I hope everyone in the world would recognize the difference between the way we have responded to this and the way al-Qaida has responded to this. We have responded to it by exercising the rule of law and seeking those responsible. They have responded by taking an innocent American civilian, who had nothing whatever to do with any of this, and cutting off his head, live and in color on international television. That is the difference between Americans and al-Qaida when faced with a problem.

So that is the first lesson I hope the world will take from the way we are handling this. The lesson that the military should take from this is that the rules are there to be obeyed. The lesson that should go forward from Specialist Sivits' court-martial, from the six general officers who got the memorandum of reprimand and from the investigations that are still going forward is that if the rules are broken, you end up in Fort Leavenworth. That is the lesson that should come out of this for the American military, and I believe it is being received there.

The lesson for the commanders, those who are now responsible and who have taken over to replace those who were relieved, is this. It comes from a statement by General Eisenhower, who knew something about military discipline. He said: ''Areas that are not inspected deteriorate.''

Let's go back to Specialist Sivits for a moment and find out from his statements relating to his court-martial what really happened. I am quoting now from the Washington Post:

> Sivits told investigators that the abuse would not have happened had higher-ranking members been present. ''Our command would have slammed us,'' he said. ''They believe in doing the right thing. If they saw what was going on, there would be hell to pay.''
>
> That statement echoes testimony given by one of the initial investigators on the case. During a session similar to a grand jury proceeding, Tyler Pieron, an Army criminal investigator, said the abuses occurred, ''after the chain of command had changed shifts and gone home.''
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> Sivits said he did not report the abuse to his commanders because [he was told not to by a friend] ''and I try to be friends with everyone. I see now where trying to be friends with everyone can cost you.''

I spoke with Secretary Rumsfeld this morning about this lesson, the lesson of command. It is fine to change the command, but we must examine what caused the problem and change the procedures. Even though the rules were there, the procedures broke down. There was not a duty officer on duty. We have been told that this abuse took place between 2 and 4 in the morning when no one was around. I raised with Secretary Rumsfeld the importance of seeing to it from now on that the new commanders of the prison make sure there is a duty officer there all night long.

Back to Eisenhower's dictum, there should be snap, surprise inspections. People in the prisons should never know when someone might drop in, unexpected and unannounced, to see what is going on. Secretary Rumsfeld concurred. I believe that is the lesson that command should receive from this experience, and I believe it is the lesson they will learn and they will follow.

As sorry as this chapter is in our proud military history and as deep as this stain has become upon America's honor, it is not the first time we have seen such chapters. It is not the first time we have endured such stains. I wish I could say it is the last time this will happen, but even in this morning's news we are hearing that there are more pictures, that it may have been more widespread than we thought. With human beings as imperfect as they are, it is inevitable that at some point in the future someone else will break the rules, violate his oath, and take actions that will cause all Americans to mourn, as we do over these actions.

Given that history, that it has happened before and perhaps will happen again, we should remember what we did as a nation when it happened before and what we are doing now. We dealt with it. We went after those who were responsible, discovered who they were, gave them their full due process, but when they were convicted, they were punished. They were dealt with. Then we made the changes that were necessary to see to it that it wouldn't happen again. Then we got past it.

We have not allowed those past chapters in our history to deter us from our destiny as a nation. We should do the same thing now. We are in the process of discovering who the guilty are. We are in the process of conducting courts-martial. Specialist Sivits is just the first. Charges have been proffered against others and additional courts-

martial will be forthcoming. We are in the process of making the changes—not just the change of command but the change in procedures to see to it that this will not happen again.

As we have done in the past, we must get through this and not let it deter us from our overall goal of why we are in Iraq. We must not fixate on this stain on our honor to the point that we become so muscle-bound that we cannot proceed forward in our mission.

What is our mission? Speakers who have addressed this before me have made that clear. Our mission is to provide freedom and security for the people of Iraq. I believe that means freedom and security for the Middle East generally. I believe that means transforming the world in which Americans live and an increase of freedom and security for our Nation as well. These are worthy, indeed noble goals, and we must not be deterred from seeking them by preoccupation with this particular outrage.

I close with a conversation I had over the weekend. Like many of us over the weekend, I went home to Utah and I participated in Armed Forces Day. It was a poignant Armed Forces Day for a variety of reasons, because many of the people who were there were families of those in the military who were there without their family member—that is, children, husbands, wives, mothers and fathers of Utahns who are serving in this war and who are not home with their families to enjoy the delightful spring day at Murray City Park where everyone was having a picnic and a good time. Set up in that area was a series of flags, one flag for each individual who had fallen in either Iraq or Afghanistan. Of course, the majority of flags were American flags, but I was struck by the number of British flags, Italian flags, Polish flags, Spanish flags—one I did not recognize, an Ukrainian flag, an Estonian flag. We are providing the leadership, but many countries in the world are responding to us as we launch on this mission.

On Armed Forces Day I sat next to a colonel. He was not a Utahn; he had come to participate in the activities. We visited over lunch. With the Army, he has been in Kosovo, he has been in Bosnia, he has been in Afghanistan, he has been in Iraq, and he was on his way back to Iraq.

I said to him: Colonel, tell me what it is like. You have been there, you have been on the ground. Tell me what it is like. He gave me an answer we hear a lot. Indeed, it was the first sentence out of his mouth that comes out the same as many others. He said: Well, things are not nearly as bad as the U.S. press would have you believe. Things are really going fairly well in many parts of the country. But we have problems.

We talked about some of the problems. He made this observation that I think should keep us thoughtful as we address our mission in Iraq. He said: You know, whether it is Bosnia, Kosovo, Afghanistan, or Iraq, the same thing is true: Those people are just like us in that all they want is to have their children be able to walk out of the door and be safe on the street, to be able to go to school without intimidation and learn what they need to learn to get a decent job and live a decent life. That is all they want in Kosovo, Bosnia, Afghanistan, or Iraq—just like us. That is what we want in America. To bring that to Iraq and give the people of Iraq that opportunity, with their wives and their children and their grandchildren, unfortunately requires force of arms. Americans, British, Italians, Poles, Spaniards, Ukrainians, Estonians, are willing to risk their lives to bring about that goal. We must never lose sight of the importance of that mission or of the sacrifice that has gone into achieving it. We must never turn back simply because there are those who have put a stain on American honor by the way they have behaved.

I pay tribute to the Armed Forces. I pay tribute to the chain of command that is dealing with these challenges. I pay tribute to those who are willing to face the problems and not back away from them or cover them up. We must support them in their efforts. We must not smear the entire establishment because of the actions of a few.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

OREGON'S ECONOMY

Mr. SMITH. Mr. President, yesterday I had the privilege to sit in that chair during much of the morning hour and I heard many of the speeches of our colleagues and friends on the other side. The theme of the day was, Are you better off today than you were 4 years ago? Those are the words of Ronald Reagan and Jimmy Carter. Now they are being applied to George W. Bush. I can say as an Oregonian that the answer in my State is yes, we are now better off than we were 4 years ago.

When I watched George W. Bush take his oath of office on a cold and rainy January day 3½ years ago, I was very mindful that Oregon was not going into recession; we were deep into recession. We had spent 8 years of the Clinton administration watching the dismantling of 70,000 family-wage jobs in many of the natural resource industries in my State, specifically, timber industry, fishing, farming, and others.

We were told we did not need low tech, we had high tech. But the bubble of high tech had already popped in Oregon. Billions of high-tech values, equities, were disappearing because they were no more than the blue sky in the end than they were in the beginning.

Then we should have known it, but the tourism industry that we were told would take the place of our basic industries was in risk of peril that maybe we could not have imagined. When September 11 occurred, tourism evaporated, as well. And my State, because of the policy of the 1990s, coupled with the incredible shocks of the high-tech bubble popping, September 11, corporate scandals, began to register some of the highest unemployment rates in America.

Today those rates are falling and falling fast in Oregon. They are nowhere near as good as they ought to be, but with lower taxes, healthy forest initiative, an effort to preserve our hydroelectric dams in the Pacific Northwest, Oregon is coming back, tourists are coming back, high-tech is being restabilized, and trade is being advanced. These are all issues that will be and are part of the Presidential election.

As one Oregonian, I ask, Are we better off than we were 4 years ago? By most indicators, the answer is emphatically, yes. The rule of thumb is it takes 6 months between the kind of economic news we are beginning to enjoy now before that news is fully understood by the American people. If that holds true this time, a majority of Oregonians will be able to answer with me that, yes, we are better off now than we were 4 years ago.

It is not perfect. Gas prices, as my colleague from Oregon, RON WYDEN, pointed out, are too high. There are many reasons for that. I don't know that they will ever come down to what they were. But I do know the contender for the Presidency does not have the answer on this. The truth is, we have to explore for more and we have to conserve more. It is not all one and it is not all the other. It is both.

I understand he is complaining he does not see the President jawboning down the prices. Yet I think what Mr. Woodward said, that the President was talking to Prince Bandar, the men and women would not stand for it. You cannot have it both ways all the time.

The other half of the equation of, Are you better off now than you were 4 years ago, is the whole issue of our foreign policy and our domestic security. Having spent 6 years on the Foreign Relations Committee, I watched President Clinton, well motivated in foreign policy, trying to reconcile what to do with American power in a world in which we were the only superpower.

I learned a great lesson from him as it relates to Kosovo. I was one of the few Republican Senators who voted with him on Kosovo, consistently believing it was in American interests because it was consistent with an American value that we end genocide in Europe's back door. But for our intervention, at the urging and pleading of our NATO allies, they would have lost Kosovo to Mr. Milosevic without American power, President Clinton's leadership, and the support of this Congress

that ultimately turned around that policy of genocide toward a European Muslim majority.

I remember asking President Clinton, Mr. President, can't you go get a Security Council resolution in support of this? He responded, Senator, I cannot because Russia and China have promised to veto.

I learned then how wise is now-President Bush's policy that you do not go to the Security Council of the United Nations in pursuit of the security of the American people. You do not get a permission slip from an institution that in its very makeup is not democratic.

It is a very interesting and historical observation that of the 191 countries of the U.N. members, only 89 would be described today as free and democratic countries. I guess a little more than half of them would be counted as liberal democratic democracies that ensure political competition, respect for civil liberties, significant independence, civic life, and independent medias. This is the same institution that puts Cuba at the head of its human rights commission and Iran at the head of its disarmament commission.

I say we should stay in it in a realistic way, even a skeptical way, using it as it serves America's interests because that is how other members of the U.N. use the U.N. But do not subject our security to a veto by the Security Council.

So when I hear our colleague on the other side run television ads in my State saying the first thing he will do as President of the United States is to return American foreign policy to the international community, I wonder what he means. And then he clarifies, he will go back to the Security Council.

I want the American people to know—I plead with Oregonians to know—that there is no security in that. Understand that permanent members of the Council—France in particular; Russia as well; China; occasionally Germany is a member—these were the primary creditors of Saddam Hussein, and they were also significant beneficiaries of the food for fraud—I am sorry—the Food for Oil Program which enabled Saddam Hussein to rearm and to execute tens of thousands of his countrymen and to build palaces of great austerity and wastefulness.

Regardless of the motives of other countries, the President did the right thing by going into Iraq and removing Saddam's murderous regime from power. We must remember that. He did the right thing for the people of Iraq, and he did the right thing for the American people as well.

By liberating the Iraqi people, we have provided hope to people not only in Iraq, but throughout the Middle East, that democracy is an option available to them. Civic movements throughout the region have emerged calling for political change, even in countries such as Egypt and Saudi Arabia. The Washington Post has reported that the individuals involved in these movements have widely credited President Bush's democratization policy for allowing them the opportunity to operate in a climate that, up to now, has been unfriendly to their aspirations. This is a real accomplishment, one that is not often touted, but that serves as a harbinger of what is to come if the United States continues to press for democratic change in the Middle East.

Unfortunately, the shameful images being broadcast around the world of a few American soldiers abusing Iraqi prisoners undermine the hard work and dedication of so many Americans who are serving honorably in Iraq. These abuses are abhorrent, and those who are responsible for them must be punished.

But in no way should we equate the actions of a few Americans with the widespread, government-endorsed terror inflicted by Saddam upon his own people. The prisoner abuse was wrong, but the United States has laws and military codes that these soldiers violated—and under which they will be held accountable. You can hardly say the same thing about Saddam's Iraq.

The tragic murder of Nick Berg should remind the American people of the kind of world in which we are living. People who are willing to brutally decapitate an innocent man for the crime of being an American citizen are not individuals who respect international law, or the founding principles of the United Nations. They respect force, and power, and resolve, and determination. President Bush understands this critical fact, and is willing to deal with these evil men in those terms, not under conditions that we wish existed but do not.

I understand that to some, the burden of responsibility we have in the world may seem too much to bear. ''Internationalizing'' conflicts seems, on the surface, to be an appropriate way to reduce our commitments abroad. I disagree. The answer is not to abdicate our responsibilities, but to embrace them.

Next week I am traveling to Madrid, Athens, and Bratislava to discuss these very issues with our NATO allies. It is my preference that we act in conjunction with them, but let me reiterate, we should act consistent with our principles. If in doing so we are at odds with our allies, that is a price I am willing to pay.

I would simply say, as the Presiding Officer has noted, there is bad news, but there is much good news, and many of us would sure like a little equality of treatment because our goals in Iraq, our goals in the war on terrorism, are noble. Short of those goals, we are left with a more moderate tyrant in the Middle East governing Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

PROJECT BIOSHIELD ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 15, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 15) to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program.

Thereupon, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 15

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Biodefense Improvement and Treatment for America Act''.

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

[Sec. 1. Short title; table of contents.

[TITLE I—PROTECTION FOR SMALLPOX EMERGENCY PERSONNEL

[Sec. 101. Short title.
[Sec. 102. Amendment to the Public Health Service Act.

[TITLE II—PROJECT BIOSHIELD

[Sec. 201. Short title.
[Sec. 202. Biomedical countermeasure research and development authorities.
[Sec. 203. Biomedical countermeasures procurement.
[Sec. 204. Authorization for medical products for use in emergencies.
[Sec. 205. Developing new countermeasures and protecting existing countermeasures against bioterrorism.

[TITLE III—IMPROVED VACCINE AFFORDABILITY AND AVAILABILITY

[Sec. 301. Short title.

[Subtitle A—State Vaccine Grants

[Sec. 311. Availability of influenza vaccine.
[Sec. 312. Program for increasing immunization rates for adults and adolescents; collection of additional immunization data.
[Sec. 313. Immunization awareness.
[Sec. 314. Supply of vaccines.
[Sec. 315. Communication.
[Sec. 316. Fast track.
[Sec. 317. Study.

[Subtitle B—Vaccine Injury Compensation Program

[Sec. 321. Administrative revision of vaccine injury table.
[Sec. 322. Equitable relief.
[Sec. 323. Derivative petitions for compensation.
[Sec. 324. Jurisdiction to dismiss actions improperly brought.
[Sec. 325. Clarification of when injury is caused by factor unrelated to administration of vaccine.

[Sec. 326. Increase in award in the case of a vaccine-related death and for pain and suffering.
[Sec. 327. Basis for calculating projected lost earnings.
[Sec. 328. Allowing compensation for family counseling expenses and expenses of establishing and maintaining guardianship.
[Sec. 329. Allowing payment of interim costs.
[Sec. 330. Procedure for paying attorneys' fees.
[Sec. 331. Extension of statute of limitations.
[Sec. 332. Advisory Commission on Childhood Vaccines.
[Sec. 333. Clarification of standards of responsibility.
[Sec. 334. Clarification of definition of manufacturer.
[Sec. 335. Clarification of definition of vaccine-related injury or death.
[Sec. 336. Clarification of definition of vaccine and definition of physical injury.
[Sec. 337. Amendments to Vaccine Injury Compensation Trust Fund.
[Sec. 338. Ongoing review of childhood vaccine data.
[Sec. 339. Pending actions.
[Sec. 340. Report.

[TITLE I—PROTECTION FOR SMALLPOX EMERGENCY PERSONNEL

[SEC. 101. SHORT TITLE.

[This title may be cited as the ''Smallpox Emergency Personnel Protection Act of 2003''.

[SEC. 102. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

[Part A of title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by inserting after section 224 the following:

[''SEC. 224A. PROTECTION FOR SMALLPOX EMERGENCY PERSONNEL.

[''(a) DEFINITIONS.—In this section:

[''(1) COVERED COUNTERMEASURE.—The term 'covered countermeasure' means a covered countermeasure as specified in article III of the Declaration.

[''(2) COVERED INDIVIDUAL.—The term 'covered individual' means an individual—

[''(A) who is—

[''(i) a health care worker, a law enforcement officer, a firefighter, a security-related worker, an emergency medical worker, or a public safety worker who is identified in a State, local, or Department of Health and Human Services plan that is approved by the Secretary; or

[''(ii) an individual with respect to whom the Secretary determines and declares that it is advisable to administer the vaccine (not including any individual to whom the Secretary determines only that such vaccine should be made available); and

[''(B) to whom a vaccine is administered during the period in which the Declaration is effective (including the portion of such period before the date of enactment of this section) and ending on the later of—

[''(i) the expiration of the 120-day period that begins on the effective date of the initial interim final regulations to implement this section;

[''(ii) the expiration of the 120-day period that begins on the date on which an individual becomes an individual within a category specified in subparagraph (A); or

[''(iii) the date on which the Secretary publicly announces that an active case of smallpox has been identified either within or outside the United States.

[''(3) COVERED INJURY.—The term 'covered injury' includes—

[''(A) an injury, disability, illness, condition, or death determined, pursuant to the procedures established under subsection (b), to have been sustained as the direct result of administration to an individual of a covered countermeasure during the effective period of the Declaration (other than a minor injury such as minor scarring or minor local reaction); and

[''(B) an injury, disability, illness, condition, or death determined, pursuant to the procedures established under subsection (b), to have been sustained as the direct result of accidental vaccinia inoculation through contact with an individual who is (or who was accidentally inoculated by) an individual in a category specified in Article IV of the Declaration to whom vaccinia vaccine has been administered during the effective period of the Declaration.

[''(4) DECLARATION.—The term 'Declaration' means the Declaration Regarding Administration of Smallpox Countermeasures issued by the Secretary of Health and Human Services on January 24, 2003, and published in the Federal Register on January 28, 2003, including any subsequent amendment.

[''(5) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is (as determined in accordance with section 3)—

[''(A) a covered individual who sustains a covered injury as the direct result of administration of a covered countermeasure; or

[''(B) any individual who contracts vaccinia during the effective period of the Declaration or within 30 days after the end of such period—

[''(i) to whom vaccinia vaccine was not administered;

[''(ii) who has resided with, or has been in close contact with, a covered individual; and

[''(iii) who sustains a covered injury as the direct result of contracting vaccinia.

[''(6) SECRETARY.—Except as provided otherwise, the term 'Secretary' means the Secretary of Health and Human Services.

[''(b) DETERMINATION OF ELIGIBILITY.—

[''(1) IN GENERAL.—The Secretary, in consultation with the Attorney General and the Secretary of Labor, shall establish administrative procedures for determining, as applicable with respect to an individual—

[''(A) whether the individual is an eligible individual;

[''(B) whether the individual has sustained a covered injury or injuries for which medical benefits and employment income-loss compensation may be available under subsections (d) and (e), and the amount of such benefits or compensation; and

[''(C) whether the covered injury or injuries of the individual constitute a compensable disability, or caused the individual's death, for purposes of benefits under subsection (f).

[''(2) COVERED INDIVIDUALS.—The Secretary may accept a certification, by a Federal, State, or local government entity or private health care entity participating in the administration of covered countermeasures under the Declaration, that an individual is an individual in a category specified in article IV of the Declaration to whom such a countermeasure has been administered by the applicable deadline specified in subsection (a)(2)(B), as establishing that the individual is a covered individual.

[''(3) DETERMINATION OF CAUSATION.—

[''(A) INJURIES SPECIFIED IN INJURY TABLE.—In any case where an injury or other adverse effect specified in the injury table established under subsection (c) as a known effect of a covered countermeasure manifests in an individual within the time period specified in such table, such injury or other effect shall be rebuttably presumed to have resulted from administration of such covered countermeasure.

[''(B) OTHER DETERMINATIONS.—In making determinations other than those described in subparagraph (A) as to the causation or severity of an injury, the Secretary shall take into consideration all relevant medical and scientific evidence presented for consideration, and may obtain and consider the views of qualified medical experts.

[''(4) DEADLINE FOR FILING CLAIM.—The Secretary shall not consider any claim for a benefit under this subsection with respect to an individual that is filed later than 1 year after—

[''(A) the date a covered countermeasure was administered to the individual; or

[''(B) in the case of a claim based on contact vaccination (as described in subsection (a)(5)(B)), the date of the first symptom or manifestation of onset of an adverse effect of such vaccination.

[''(5) REVIEW OF DETERMINATION.—

[''(A) SECRETARY'S REVIEW AUTHORITY.—The Secretary may review a determination under this subsection at any time on the Secretary's own motion or on application, and may affirm, vacate, or modify such determination.

[''(B) SECRETARY'S ACTION NOT JUDICIALLY REVIEWABLE.—The determinations of the Secretary under this subsection shall not be subject to review by another official of the United States or by a court by mandamus or otherwise.

[''(c) COUNTERMEASURE INJURY TABLE.—

[''(1) SMALLPOX COUNTERMEASURE INJURY TABLE.—The Secretary shall establish by interim final regulation a table identifying—

[''(A) adverse effects (including injuries, disabilities, illnesses, conditions, and deaths) that shall be presumed to result from the administration of (or exposure to) a covered countermeasure; and

[''(B) the time periods in which the first symptom, or manifestation of onset of each such adverse effect, must manifest in order for such presumption to apply.

[''(2) AMENDMENTS.—The Secretary may amend by regulation the table established under paragraph (1). Such amendments shall apply retroactively to claims filed or pending at the time of the promulgation of final amending regulations and to claims filed after such promulgation.

[''(d) MEDICAL BENEFITS.—

[''(1) IN GENERAL.—Subject to paragraph (2), an eligible individual shall be entitled to payment by the Secretary for medical items and services as reasonable and necessary to treat a covered injury. The Secretary may consider the provisions of chapter 81 of title 5, United States Code, (and the implementing regulations with respect to such chapter) in determining the amount of such payment and the circumstances under which such payments are reasonable and necessary.

[''(2) LIMITATIONS.—

[''(A) BENEFITS SECONDARY TO OTHER COVERAGE.—The obligation of the Secretary to pay for any services or benefits under paragraph (1) shall be secondary to the obligation of the United States or any third party (including any State or local governmental entity, private insurance carrier, or employer) under any other provision of law or contractual agreement, to pay for or provide such services or benefits.

[''(B) NO BENEFITS FOR MEDICARE-ELIGIBLE INDIVIDUAL.—No benefits shall be available to an individual under this subsection with respect to any period in which the individual is eligible for benefits under title XVIII of the Social Security section (42 U.S.C. 1395 et seq.).

[''(e) COMPENSATION FOR LOST EMPLOYMENT INCOME.—

[''(1) IN GENERAL.—Subject to paragraphs (2) and (3), an eligible individual shall be entitled to payment of compensation by the

Secretary for loss of employment income incurred as a result of a covered injury, at the rate specified in paragraph (2).

[''(2) AMOUNT OF COMPENSATION.—

[''(A) IN GENERAL.—Compensation under this subsection shall be at the rate of 66⅔ percent of monthly pay. The Secretary may consider the provisions of sections 8114 and 8115 of title 5, United States Code (and any implementing regulations) in determining the amount of such payment and the circumstances under which such payments are reasonable and necessary.

[''(B) TREATMENT OF SELF-EMPLOYMENT INCOME.—For purposes of this subsection—

[''(i) the term 'employment income' includes income from self-employment; and

[''(ii) for purposes of computation of pay and determination of wage-earning capacity under subparagraph (A), self-employment income shall be treated as wages.

[''(3) LIMITATIONS.—

[''(A) BENEFITS SECONDARY TO OTHER COVERAGE.—The obligation of the Secretary to pay compensation under paragraph (1) shall be secondary to the obligation of the United States or any third party (including any State or local governmental entity, private insurance carrier, or employer), under any other law or contractual agreement, to pay compensation for loss of employment income.

[''(B) NO BENEFITS FOR DEATH OR PERMANENT AND TOTAL DISABILITY.—No payment shall be made under this subsection in compensation for loss of employment income due to the death or permanent and total disability of an eligible individual.

[''(C) LIMIT ON TOTAL BENEFITS.—Total benefits paid to an individual under this subsection shall not exceed $50,000.

[''(D) WAITING PERIOD.—An eligible individual is not entitled to compensation under this subsection for the first 5 work days of disability.

[''(f) PAYMENT FOR DEATH AND PERMANENT, TOTAL DISABILITY.—

[''(1) BENEFIT FOR PERMANENT AND TOTAL DISABILITY.—Subject to the succeeding provisions of this subsection, an eligible individual who is determined, in accordance with the procedures established under subsection (b), to have a covered injury or injuries meeting the definition of disability in section 216(i) of the Social Security Act (42 U.S.C. 416(i)) shall be entitled to have payment made by the Secretary of an amount determined under paragraph (3), in the same manner as disability benefits are paid pursuant to the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) with respect to an eligible public safety officer.

[''(2) DEATH BENEFIT.—Subject to the succeeding provisions of this subsection, in the case of an eligible individual whose death is determined, in accordance with the procedures established under subsection (b), to have directly resulted from a covered injury or injuries a death benefit in the amount determined under paragraph (3) shall be payable by the Secretary to the survivor or survivors in the same manner as death benefits are paid pursuant to the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) with respect to an eligible deceased public safety officer.

[''(3) BENEFIT AMOUNT.—The amount of the disability or death benefit under paragraph (1) or (2) in a fiscal year shall, subject to paragraph (5)(B), equal the amount of the comparable benefit calculated under the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) in such fiscal year, without regard to any reduction attributable to a limitation on appropriations.

[''(4) BENEFIT IN ADDITION TO MEDICAL BENEFITS.—A benefit under this subsection shall be in addition to any amounts to which an eligible individual may be entitled as medical benefits under subsection (d).

[''(5) LIMITATIONS.—

[''(A) DISABILITY BENEFITS.—No benefit is payable under paragraph (1) with respect to the disability of an eligible individual if—

[''(i) a disability benefit is paid or payable with respect to such individual under Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.); or

[''(ii) a death benefit is paid or payable with respect to such individual under paragraph (2) or the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.).

[''(B) DEATH BENEFITS.—No benefit is payable under paragraph (2) with respect to the death of an eligible individual if—

[''(i) a disability benefit is paid with respect to such individual under paragraph (1) or the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.); or

[''(ii) a death benefit is paid or payable with respect to such individual under the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.).

[''(g) ADMINISTRATION.—

[''(1) ADMINISTRATION BY AGREEMENT WITH OTHER AGENCY OR AGENCIES.—The Secretary may administer any or all of the provisions of this section through Memorandum of Agreement with the Attorney General or the Secretary of Labor.

[''(2) REGULATIONS.—The head of the agency administering this section or any provisions thereof (including any agency head administering such section or provisions through a Memorandum of Agreement under paragraph (1)) may promulgate such implementing regulations as may be determined necessary and appropriate. Initial implementing regulations may be interim final regulations.

[''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2003 and each succeeding fiscal year to carry out this section, to remain available until expended, including administrative costs and costs of provision and payment of benefits.

[''(i) RELATIONSHIP TO OTHER LAWS.—

[''(1) NO PREEMPTION OF INDIVIDUAL RIGHTS.—Except as otherwise provided in this section, nothing in this section shall be construed to override or limit any rights an individual may have to seek compensation, benefits, or redress under any other provision of Federal or State law.

[''(2) RELATIONSHIP TO THE FEDERAL TORT CLAIMS ACT.—

[''(A) EXHAUSTION REQUIREMENT.—An individual may not seek any remedy that may be available under section 224(p) (providing a cause of action under the Federal Tort Claims Act for injuries resulting from administration of smallpox countermeasures under such section 224(p)) unless such individual has first filed a claim for payment or compensation under this section and has received a final determination with respect to such claim.

[''(B) OFFSET OF COMPENSATION AGAINST FEDERAL TORT CLAIMS ACT RECOVERY.—The value of any compensation or benefits paid to an individual, or the survivor or survivors of such an individual, or the estate of the individual pursuant to a claim under this section shall be offset against any amount to which such individual or the individual's survivor, survivors, or estate are entitled under section 224(p).

[''(3) PREEMPTION OF STATE LAWS PROVIDING EXCLUSIVE REMEDY FOR WORK-RELATED INJURIES.—No provision of a State workers' compensation law or other State law shall be construed to bar claims or benefits under this section, to the extent that it purports to make such State law the exclusive remedy for a work-related injury or otherwise to make benefits under this section unavailable to an otherwise eligible individual.''.

[TITLE II—PROJECT BIOSHIELD

[SEC. 201. SHORT TITLE.

[This title may be cited as the ''Project BioShield Act of 2003''.

[SEC. 202. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT AUTHORITIES.

[Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

[''SEC. 409I. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT.

[''(a) IN GENERAL.—

[''(1) AUTHORITY.—In carrying out research responsibilities under this Act, the Secretary may conduct and support research and development with respect to biomedical countermeasures.

[''(2) IMPLEMENTATION.—

[''(A) IN GENERAL.—Except as provided in subparagraph (C), authorities assigned by this section to the Secretary shall be carried out through the Director of NIH and the Director of the National Institute of Allergy and Infectious Diseases.

[''(B) LEAD INSTITUTE.—The National Institute of Allergy and Infectious Diseases shall be the lead institute for biomedical countermeasure research and development under this section.

[''(C) CHEMICAL, RADIOLOGICAL, AND NUCLEAR AGENTS.—To the extent that an authority described in subparagraph (A) is exercised with respect to a chemical, radiological, or nuclear agent, the Secretary may authorize the Director of NIH to carry out the authority through any national research institute.

[''(3) INTERAGENCY COOPERATION.—

[''(A) IN GENERAL.—In carrying out activities under this section, the Secretary is authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the Federal Government and to use other agencies of the Department of Health and Human Services.

[''(B) LIMITATION.—An agreement or undertaking under this paragraph may not authorize another agency to exercise the authorities provided to the Secretary by this section.

[''(b) EXPEDITED PROCUREMENT AUTHORITY.—

[''(1) INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR BIOMEDICAL COUNTERMEASURE PROCUREMENTS.—

[''(A) IN GENERAL.—For any procurement by the Secretary, of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasure research or development, the amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as applicable pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), shall be deemed to be $25,000,000 in the administration, with respect to such procurement, of—

[''(i) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

[''(ii) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

[''(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements made under this paragraph, including requirements with respect to documenting the justification for use of the authority provided in this paragraph.

[''(2) USE OF NONCOMPETITIVE PROCEDURES.—In addition to any other authority to use procedures other than competitive procedures for procurements, the Secretary may use such other noncompetitive procedures when—

[''(A) the procurement is as described by paragraph (1)(A); and

[''(B) the property or services needed by the Secretary are available from only one responsible source or only from a limited number of responsible sources, and no other type of property or services will meet the needs of the Secretary.

[''(3) INCREASED MICROPURCHASE THRESHOLD.—

[''(A) IN GENERAL.—For a procurement described by paragraph (1)(A), the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement.

[''(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements that are made under this paragraph and that are greater than $2,500.

[''(C) EXCEPTION TO PREFERENCE FOR PURCHASE CARD MECHANISM.—No provision of law establishing a preference for using a Federal Government purchase card method for purchases shall apply to procurements made under this paragraph and that are greater than $2,500.

[''(c) AUTHORITY TO EXPEDITE PEER REVIEW.—The Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, employ such expedited peer review procedures (including consultation with appropriate scientific experts) as the Secretary, in consultation with the Director of NIH, determines to be appropriate to obtain an assessment of scientific and technical merit and likely contribution to the field of biomedical countermeasure research, in place of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494, as applicable to a grant, contract, or cooperative agreement—

[''(1) that is for performing, administering, or supporting biomedical countermeasure research and development; and

[''(2) the amount of which is not greater than $1,500,000.

[''(d) FACILITIES AUTHORITY.—

[''(1) AGENCY FACILITIES.—In addition to any similar authority provided under any other provision of law, in carrying out this section, the Secretary may—

[''(A) acquire, lease, construct, improve, renovate, remodel, repair, operate, and maintain laboratories, other research facilities and equipment, and other real or personal property as the Secretary determines necessary for the purpose of performing, administering, and supporting biomedical countermeasure research and development; and

[''(B) acquire, without regard to section 8141 of title 40, United States Code, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia.

[''(2) FACILITIES OF GRANTEE OR COOPERATIVE AGREEMENT PARTNER.—

[''(A) IN GENERAL.—The Secretary may exercise the authorities described in section 481A with respect to biocontainment laboratories and other related or ancillary specialized research facilities as the Secretary determines necessary for the purpose of performing, administering, and supporting biomedical countermeasure research and development.

[''(B) AVAILABILITY OF FACILITY TO SECRETARY.—A grant or cooperative agreement under subparagraph (A) may provide that the facility that is the object of such grant or cooperative agreement shall be available as needed to the Secretary to respond to public health emergencies affecting national security.

[''(C) TWENTY YEAR USE REQUIREMENT.—A grant or cooperative agreement under this paragraph shall include an agreement by the grantee or cooperative agreement partner that, for not less than 20 years after the completion of the acquisition, construction, or other work described in subparagraph (A), the facility will be used for the purposes of the research and development for which it is to be acquired, constructed, or otherwise improved.

[''(D) AMOUNT OF GRANT; COST-SHARING; PAYMENTS.—The provisions of section 481A(e) shall apply to a grant or cooperative agreement under this paragraph, except that—

[''(i) authorities exercised under that section by the Director of the National Center for Research Resources shall, for purposes of this paragraph, be exercised by the Secretary; and

[''(ii) for purposes of this paragraph, each of the percentages in subparagraphs (A) and (B) of section 481A(e)(1) shall be deemed to be 75 percent.

[''(E) RECAPTURE OF PAYMENTS.—If, not later than 20 years after the completion of construction for which a grant or cooperative agreement has been awarded under this paragraph, the facility shall cease to be used for the research and development purposes for which it was constructed (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so), the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction, acquisition, or other improvement of such facility.

[''(e) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—

[''(1) IN GENERAL.—For the purpose of performing, administering, and supporting biomedical countermeasure research and development, the Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, obtain by contract (in accordance with section 3109 of title 5, United States Code, but without regard to the limitations in such section on the period of service and on pay) the personal services of experts or consultants who have scientific or other professional qualifications.

[''(2) FEDERAL TORT CLAIMS ACT COVERAGE.—

[''(A) IN GENERAL.—A person carrying out a contract under paragraph (1), and an officer, employee, or governing board member of such person, shall be deemed to be an employee of the Department of Health and Human Services for purposes of claims under sections 1346(b) and 2672 of title 28, United States Code, for money damages for personal injury, including death, resulting from performance of functions under such contract.

[''(B) EXCLUSIVITY OF REMEDY.—The remedy provided by subparagraph (A) shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the person, officer, employee, or governing board member.

[''(3) INTERNAL CONTROLS TO BE INSTITUTED.—

[''(A) IN GENERAL.—The Secretary shall institute appropriate internal controls for contracts under this subsection, including procedures for the Secretary to make a determination of whether a person, or an officer, employee, or governing board member of a person, is deemed to be an employee of the Department of Health and Human Services pursuant to paragraph (2).

[''(B) DETERMINATION OF EMPLOYEE STATUS TO BE FINAL.—A determination by the Secretary under subparagraph (A) that a person, or an officer, employee, or governing board member of a person, is or is not deemed to be an employee of the Department of Health and Human Services shall be final and binding on the Secretary and the Attorney General and other parties to any civil action or proceeding.

[''(4) NUMBER OF PERSONAL SERVICES CONTRACTS LIMITED.—The number of experts and consultants whose personal services are obtained under paragraph (1) shall not exceed 30 at any time.

[''(f) STREAMLINED PERSONNEL AUTHORITY.—

[''(1) IN GENERAL.—In addition to any other personnel authorities, the Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, without regard to such provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, appoint professional and technical employees, not to exceed 30 such employees at any time, to positions in the National Institutes of Health to perform, administer, or support biomedical countermeasure research and development in carrying out this section.

[''(2) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for appointments under this subsection.

[''(g) DEFINITION.—As used in this section, the term 'biomedical countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that is used—

[''(1) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

[''(2) to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in paragraph (1).

[''(h) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions by the Secretary under the authority of this section are committed to agency discretion.''.

[SEC. 203. BIOMEDICAL COUNTERMEASURES PROCUREMENT.

[Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 300hh–12) is amended—

[(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

[(2) by inserting after subsection (b) the following:

[''(c) BIOMEDICAL COUNTERMEASURES PROCUREMENT.—

[''(1) DETERMINATION OF MATERIAL THREATS.—

[''(A) RISK OF USE.—The Secretary, in consultation with the heads of other agencies as appropriate, shall on an ongoing basis—

[''(i) assess current and emerging threats of use of chemical, biological, radiological, and nuclear agents; and

[''(ii) determine which of such agents present a material risk of use against the United States population.

[''(B) PUBLIC HEALTH IMPACT.—The Secretary of Health and Human Services, in consultation with the Secretary, shall on an ongoing basis—

[''(i) assess the potential public health consequences of use against the United States population of agents identified under subparagraph (A)(ii); and

[''(ii) determine, on the basis of such assessment, the agents for which countermeasures are necessary to protect the public health.

[''(2) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES.—The Secretary of Health and Human Services, in consultation with the Secretary, shall assess on an ongoing basis the availability and appropriateness of specific countermeasures to address specific threats identified under paragraph (1).

[''(3) SECRETARY'S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR PROCUREMENT UNDER THIS SUBSECTION.—

[''(A) IN GENERAL.—The Secretary of Health and Human Services, in accordance with this paragraph, shall identify specific countermeasures to threats identified under paragraph (1) that such Secretary determines, in consultation with the Secretary of Homeland Security, to be appropriate for procurement with appropriations under this subsection for inclusion in the stockpile under subsection (a).

[''(B) REQUIREMENTS.—In order for the Secretary of Health and Human Services to make the determination under subparagraph (A) with respect to a countermeasure, the following requirements must be met:

[''(i) DETERMINATION OF QUALIFIED COUNTERMEASURE.—Such Secretary must determine that the product is a qualified countermeasure (as defined in paragraph (7)).

[''(ii) DETERMINATION OF QUANTITIES NEEDED AND FEASIBILITY OF PRODUCTION AND DISTRIBUTION.—Such Secretary must determine—

[''(I) the quantities of the product that will be needed to meet the needs of the stockpile; and

[''(II) that production and delivery within 5 years of sufficient quantities of the product, as so determined, is reasonably expected to be feasible.

[''(iii) DETERMINATION OF NO SIGNIFICANT COMMERCIAL MARKET.—Such Secretary shall—

[''(I) determine that, at the time of the initial determination under this paragraph, there is not a significant commercial market for the product other than as a homeland security threat countermeasure; and

[''(II) annually redetermine and report to the President, while a determination under subparagraph (A) remains in effect with respect to the product, whether a significant commercial market exists for the product other than as a homeland security threat countermeasure.

[''(4) RECOMMENDATION FOR PRESIDENT'S APPROVAL.—

[''(A) RECOMMENDATION FOR PROCUREMENT.—In the case of a countermeasure that the Secretary and the Secretary of Health and Human Services have determined is appropriate for procurement under this subsection for inclusion in the stockpile, in accordance with the preceding provisions of this subsection, the Secretary and the Secretary of Health and Human Services shall jointly submit to the President, in coordination with the Director of the Office of Management and Budget, a recommendation for procurement under this subsection.

[''(B) PRESIDENTIAL APPROVAL.—A countermeasure may be procured under this subsection only if the President has approved a recommendation under subparagraph (A) with respect to such countermeasure.

[''(C) NOTICE TO CONGRESS.—The Secretary shall notify Congress of each decision of the President to approve a recommendation under subparagraph (A).

[''(5) PROCUREMENT.—The Secretary of Health and Human Services and the Secretary shall be responsible for the following, for purposes of procurement of qualified countermeasures for the stockpile under subsection (a), as approved by the President under paragraph (4):

[''(A) INTERAGENCY AGREEMENTS.—

[''(i) FOR PROCUREMENT.—The Secretary shall enter into an agreement with the Secretary of Health and Human Services for the procurement of the countermeasure in accordance with the provisions of this paragraph. Amounts appropriated under paragraph (8) shall be available for the Secretary of Health and Human Service's costs of such procurement, other than as provided in clause (ii).

[''(ii) FOR ADMINISTRATIVE COSTS.—The agreement entered into between the Secretary and the Secretary of Health and Human Services for managing the stockpile under subsection (a) shall provide for reimbursement of the Secretary of Health and Human Service's administrative costs relating to procurements under this subsection from appropriations to carry out such subsection (a).

[''(B) PROCUREMENT.—

[''(i) IN GENERAL.—The Secretary of Health and Human Services shall be responsible for—

[''(I) arranging for procurement of the countermeasure, including negotiating terms (including quantity, production schedule, and price) of, and entering into, contracts and cooperative agreements, and for carrying out such other activities as may reasonably be required, in accordance with the provisions of this subparagraph; and

[''(II) promulgating regulations to implement clauses (v), (vi), and (vii), and any other provisions of this subsection.

[''(ii) CONTRACT TERMS.—A contract for procurements under this subsection shall (or, as otherwise specified in this clause, may) include the following terms:

[''(I) PAYMENT CONDITIONED ON SUBSTANTIAL DELIVERY.—The contract shall provide that no payment may be made until delivery has been made of a substantial portion (as determined by the Secretary of Health and Human Services) of the total number of units contracted for.

[''(II) DISCOUNTED PAYMENT FOR UNLICENSED PRODUCT.—The contract may provide for a discounted price per unit of a product that is not licensed or approved as described in paragraph (7)(A) at the time of delivery, and may provide for payment of an additional amount per unit if the product becomes so licensed or approved before the expiration date of the contract (including an additional amount per unit of product delivered before the effective date of such licensing or approval).

[''(III) STORAGE BY VENDOR.—The contract may provide that the vendor will provide storage for stocks of a product delivered to the ownership of the Government under the contract, for such period and under such terms and conditions as the Secretary of Health and Human Services may specify, and in such case amounts appropriated under paragraph (8) shall be available for costs of shipping, handling, storage, and related costs for such product.

[''(IV) CONTRACT DURATION.—The contract shall be for a period not to exceed 5 years, renewable for additional periods none of which shall exceed 5 years.

[''(V) TERMINATION FOR NONDELIVERY.—In addition to any other rights of the Secretary of Health and Human Services to terminate the contract, the contract may provide that such Secretary may terminate the contract for failure to deliver a reasonable number (as determined by such Secretary) of units of the product by 3 years after the date the contract is entered into, and may further provide that in such case the vendor shall not be entitled to any payment under the contract.

[''(iii) AVAILABILITY OF SIMPLIFIED ACQUISITION PROCEDURES.—The amount of any procurement under this subsection shall be deemed to be below the threshold amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), for purposes of application to such procurement, pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), of—

[''(I) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

[''(II) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

[''(iv) USE OF NONCOMPETITIVE PROCEDURES.—In addition to any other authority to use procedures other than competitive procedures, the Secretary of Health and Human Services may use such other procedures for a procurement under this subsection if the product is available from only one responsible source or only from a limited number of responsible sources, and no other type of product will satisfy such Secretary's needs.

[''(v) PREMIUM PROVISION IN MULTIPLE AWARD CONTRACTS.—

[''(I) IN GENERAL.—If, under this subsection, the Secretary of Health and Human Services enters into contracts with more than one person to procure a countermeasure, such Secretary may, notwithstanding any other provision of law, include in each of such contracts a provision that—

[''(aa) identifies an increment of the total quantity of countermeasure required, whether by percentage or by numbers of units; and

[''(bb) promises to pay one or more specified premiums based on the priority of such persons' production and delivery of the increment identified under item (aa), in accordance with the terms and conditions of the contract.

[''(II) DETERMINATION OF GOVERNMENT'S REQUIREMENT NOT REVIEWABLE.—If the Secretary of Health and Human Services includes in each of a set of contracts a provision as described in clause (I), such Secretary's determination of the total quantity of countermeasure required, and any amendment of such determination, is committed to agency discretion.

[''(vi) EXTENSION OF CLOSING DATE FOR RECEIPT OF PROPOSALS NOT REVIEWABLE.—A decision by the Secretary of Health and Human

Services to extend the closing date for receipt of proposals for a procurement under this subsection is committed to agency discretion.

[''(vii) LIMITING COMPETITION TO SOURCES RESPONDING TO REQUEST FOR INFORMATION.—In conducting a procurement under this subsection, the Secretary of Health and Human Services may exclude a source that has not responded to a request for information under section 303A(a)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(a)(1)(B)) if such request has given notice that such Secretary may so exclude such a source.

[''(6) INTERAGENCY COOPERATION.—

[''(A) IN GENERAL.—In carrying out activities under this section, the Secretary and the Secretary of Health and Human Services are authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

[''(B) LIMITATION.—An agreement or undertaking under this paragraph shall not authorize another agency to exercise the authorities provided by this section to the Secretary or to the Secretary of Health and Human Services.

[''(7) DEFINITIONS.—In this subsection:

[''(A) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' means a biomedical countermeasure—

[''(i) that is approved under section 505(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or licensed under section 351 of the Public Health Service Act (42 U.S.C. 262) for use as such a countermeasure to a chemical, biological, radiological, or nuclear agent identified as a material threat under paragraph (1); or

[''(ii) for which the Secretary of Health and Human Services determines that sufficient and satisfactory clinical experience or research data (including data, if available, from preclinical and clinical trials) support a reasonable conclusion that the product will qualify for approval or licensing as such a countermeasure within 5 years after the date of a determination under paragraph (3).

[''(B) BIOMEDICAL COUNTERMEASURE.—The term 'biomedical countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))) or biological product (as that term is defined by section 351(i) of the Public Health Service Act (42 U.S.C. 262(i))) that is used—

[''(i) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

[''(ii) to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug or biological product that is used as described in clause (i).

[''(8) APPROPRIATIONS.—

[''(A) IN GENERAL.— There are appropriated, out of any moneys in the Treasury not otherwise appropriated, for fiscal year 2003 and for each fiscal year thereafter, such sums as may be necessary for the costs incurred by the Secretary in the procurement of countermeasures under this subsection as approved by the President under paragraph (4) (other than costs specified in subparagraph (B)).

[''(B) RESTRICTIONS.—Amounts appropriated under this paragraph shall not be available to pay—

[''(i) costs for the purchase of vaccines under procurement contracts entered into before January 1, 2003;

[''(ii) costs under new contracts, or costs of new obligations under contracts previously entered into, for procurement of a countermeasure after the date of a determination under paragraph (3)(B)(iii) that there is a significant commercial market for the countermeasure other than as a homeland security threat countermeasure; or

[''(iii) administrative costs.''.

[SEC. 204. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

[(a) IN GENERAL.—Subchapter E of Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb, et seq.) is amended by adding at the end the following:

["SEC. 564. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

[''(a) IN GENERAL.—Notwithstanding sections 505 and 515 of this Act and section 351 of the Public Health Service Act, and subject to the provisions of this section, the Secretary may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug or device intended solely for use in an actual or potential emergency.

[''(b) DECLARATION OF EMERGENCY.—

[''(1) IN GENERAL.—The Secretary may declare an emergency justifying the authorization of a drug or device under this subsection on the basis of a determination—

[''(A) by the Secretary of Homeland Security, that there is a national emergency (or a significant potential of a national emergency) involving a heightened risk of attack with a specified biological, chemical, radiological, or nuclear agent or agents;

[''(B) by the Secretary of Defense, that there is a military emergency (or a significant potential of a military emergency) involving a heightened risk to United States military forces of attack with a biological, chemical, radiological, or nuclear agent or agents; or

[''(C) by the Secretary of a public health emergency under section 319 of the Public Health Service Act, involving a specified disease or condition or a specified biological, chemical, radiological, or nuclear agent or agents.

[''(2) TERMINATION OF DECLARATION.—

[''(A) IN GENERAL.—A declaration under this subsection shall terminate upon the earlier of—

[''(i) a determination by the Secretary, in consultation as appropriate with the Secretary of Homeland Security or the Secretary of Defense, that the circumstances described in paragraph (1) have ceased to exist; or

[''(ii) the expiration of the 1-year period beginning on the date on which the declaration is made.

[''(B) RENEWAL.—Notwithstanding subparagraph (A), the Secretary may renew a declaration under this subsection, and this paragraph shall apply to any such renewal.

[''(3) PUBLICATION.—The Secretary shall promptly publish in the Federal Register each declaration, determination, and renewal under this subsection.

[''(c) CRITERIA FOR ISSUANCE OF AUTHORIZATION.—The Secretary may issue an authorization under this section with respect to a product if the Secretary concludes—

[''(1) that an agent specified in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

[''(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

[''(A) the product may be effective in detecting, diagnosing, treating, or preventing—

[''(i) such disease or condition; or

[''(ii) a serious or life-threatening disease or condition caused by a product authorized under this section or approved under this Act or the Public Health Service Act, for detecting, diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

[''(B) the known and potential benefits of the product, when used to detect, diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product;

[''(3) that there is no adequate, approved, and available alternative to the product for detecting, diagnosing, preventing, or treating such disease or condition; and

[''(4) that such other criteria as the Secretary may by regulation prescribe are satisfied.

[''(d) SCOPE OF AUTHORIZATION.—An authorization of a product under this section shall state—

[''(1) each disease or condition that the product may be used to detect, diagnose, prevent, or treat within the scope of the authorization; and

[''(2) the Secretary's conclusions, under subsection (c), concerning the safety and potential effectiveness of the product in detecting, diagnosing, preventing, or treating such diseases or conditions, including an assessment of the available scientific evidence.

[''(e) CONDITIONS OF AUTHORIZATION.—

[''(1) IN GENERAL.—The Secretary is authorized, by order or regulation, to impose such conditions on an authorization under this section as the Secretary determines are necessary or appropriate to protect the public health, including the following:

[''(A) The Secretary shall impose requirements (including requirements concerning product labeling and the provision of information) designed to ensure that, to the maximum extent feasible given the circumstances of the emergency, health care professionals administering the product are informed—

[''(i) that the Secretary has authorized the product solely for emergency use;

[''(ii) of the significant known and potential benefits and risks of use of the product, and of the extent to which such benefits and risks are unknown; and

[''(iii) of the alternatives to the product that are available, and of their benefits and risks.

[''(B) The Secretary shall impose requirements (including requirements concerning product labeling and the provision of information) designed to ensure that, to the maximum extent feasible given the circumstances of the emergency, individuals to whom the product is administered are informed—

[''(i) that the Secretary has authorized the product solely for emergency use;

[''(ii) of the significant known and potential benefits and risks of use of the product, and of the extent to which such benefits and risks are unknown; and

[''(iii) of any option to accept or refuse administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

[''(C) The Secretary may impose limitations on which entities may distribute the product (including limitation to distribution by government entities), and on how distribution is to be performed.

[''(D) The Secretary may impose limitations on who may administer the product, and on the categories of individuals to whom, and the circumstances under which, the product may be administered.

[''(E) The Secretary may condition the authorization on the performance of studies, clinical trials, or other research needed to support marketing approval of the product.

[''(F) The Secretary may impose requirements concerning recordkeeping and reporting, including records access by the Secretary and publication of data.

[''(G) The Secretary may impose (or waive) requirements, with respect to the product, of current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act.

[''(H) The Secretary may impose requirements for the monitoring and reporting of adverse events associated with use of the product.

[''(2) WAIVER.—The Secretary may waive any condition imposed under this subsection.

[''(f) DURATION OF AUTHORIZATION.—

[''(1) IN GENERAL.—Except as provided in paragraph (2), an authorization under this section shall be effective until the earlier of the termination of the declaration under subsection (b) or a revocation under subsection (g).

[''(2) CONTINUED USE AFTER END OF EFFECTIVE PERIOD.—An authorization shall continue to be effective for continued use with respect to patients to whom it was administered during the period described by paragraph (1), to the extent found necessary by such patients' attending physicians.

[''(g) REVOCATION OF AUTHORIZATION.—

[''(1) REVIEW.—The Secretary shall periodically review the circumstances and the appropriateness of an authorization under this section.

[''(2) REVOCATION.—The Secretary may revoke an authorization under this section if, in the Secretary's unreviewable discretion—

[''(A) the conditions for such an authorization are no longer met; or

[''(B) other circumstances make such revocation appropriate.

[''(h) PUBLICATION.—The Secretary shall promptly publish in the Federal Register a notice of each authorization, and each termination or revocation of an authorization, under this section.

[''(i) RECORDKEEPING.—

[''(1) IN GENERAL.—The Secretary may by order or regulation require persons, including a person who holds an authorization under this section, or who manufactures, distributes, prescribes, or administers a product that is the subject of such an authorization, to establish and maintain—

[''(A) data that is obtained from such activity and that pertains to the effectiveness or safety of such product;

[''(B) such records as are necessary to determine, or facilitate a determination, whether there may be any violation of this section or of a regulation promulgated under this section; and

[''(C) such additional records as the Secretary may determine necessary.

[''(2) ACCESS TO RECORDS BY SECRETARY.—

[''(A) SAFETY AND EFFECTIVENESS INFORMATION.—The Secretary may by order or regulation require a person who holds an authorization under this section, or who manufactures, distributes, prescribes, or administers a product that is the subject of such an authorization to provide to the Secretary all data that is obtained from such activity and that pertains to the safety or effectiveness of such product.

[''(B) OTHER INFORMATION.—Every person required under this section to establish or maintain records, and every person in charge or custody of such records, shall, upon request by the Secretary, permit the Secretary at all reasonable times to have access to, to copy, and to verify such records.

[''(j) CIVIL MONETARY PENALTIES.—

[''(1) IN GENERAL.—A person who violates a requirement of this section or of a regulation or order promulgated pursuant to this section shall be subject to a civil money penalty of not more than $100,000 in the case of an individual, and not more than $250,000 in the case of any other person, for each violation, not to exceed $1,000,000 for all such violations adjudicated in a single proceeding.

[''(2) ASSESSMENT OF CIVIL PENALTIES.—Paragraphs (3), (4), and (5) of section 303(g) shall apply to a civil penalty under this subsection, and references in such paragraphs to 'paragraph (1) or (2)' shall, for purposes of this subsection, be deemed to refer to paragraph (1) of this subsection.

[''(k) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions under the authority of this section by the Secretary, by the Secretary of Defense, or by the Secretary of Homeland Security are committed to agency discretion.

[''(l) REGULATIONS.—The Secretary may promulgate regulations to implement this section.

[''(m) CONSTRUCTION.—Nothing in this section shall be construed to impair or otherwise affect—

[''(1) the authority of the President as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution; or

[''(2) the authority of the Secretary of Defense with respect to the Department of Defense, including the armed forces, under other provisions of Federal law.

[''(n) APPLICATION TO MEMBERS OF ARMED FORCES.—

[''(1) WAIVER OF REQUIREMENT RELATING TO OPTION TO REFUSE.—In the case of the administration of a countermeasure to members of the armed forces, a requirement, under subsection (e)(2)(C), designed to ensure that individuals are informed of an option to accept or refuse administration of a product, may be waived by the President if the President determines, in writing, that complying with such requirement is not feasible, is contrary to the best interests of the members affected, or is not in the interests of national security.

[''(2) EFFECT ON STATUTE PERTAINING TO INVESTIGATIONAL NEW DRUGS.—In the case of an authorization based on a determination by the Secretary of Defense under subsection (b)(1)(B), section 1107 of title 10, United States Code, shall not apply to use of a product that is the subject of such authorization, within the scope of such authorization and while such authorization is effective.

[''(o) RELATION TO OTHER PROVISIONS.—If a product is the subject of an authorization under this section, the use of such product within the scope of the authorization—

[''(1) shall not be subject to any requirements pursuant to section 505(i) or 520(g); and

[''(2) shall not be subject to any requirements otherwise applicable to clinical investigations pursuant to other provisions of this Act.''.

[(b) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

[(1) in subsection (e)—

[(A) by striking ''504, 703'' and inserting ''504, 564, 703''; and

[(B) by striking ''or 519'' and inserting ''519, or 564''; and

[(2) by adding at the end the following:

[''(hh)(1) Promotion or use of a product that is the subject of an authorization under section 564 other than as stated in the authorization, or other than during the period described by section 564(g), unless such promotion or use is permitted under another provision of this Act.

[''(2) Failure to comply with an information requirement under section 564(e)(1).''.

[SEC. 205. DEVELOPING NEW COUNTERMEASURES AND PROTECTING EXISTING COUNTERMEASURES AGAINST BIOTERRORISM.

[Section 319F of the Public Health Service Act (42 U.S.C. 247d–6) is amended by adding at the end the following:

[''(k) LIMITED ANTITRUST EXEMPTION.—

[''(1) COUNTERMEASURES DEVELOPMENT MEETINGS.—

[''(A) COUNTERMEASURES DEVELOPMENT MEETINGS AND CONSULTATIONS.—The Secretary may conduct meetings and consultations with parties involved in the development of countermeasures for the purpose of the development, manufacture, distribution, or sale of priority countermeasures consistent with the purposes of this title. The Secretary shall give notice of such meetings and consultations to the Attorney General and the Chairperson of the Federal Trade Commission (referred to in this subsection as the 'Chairperson').

[''(B) MEETING AND CONSULTATION CONDITIONS.—A meeting or consultation conducted under subparagraph (A) shall—

[''(i) be chaired or, in the case of a consultation, facilitated by the Secretary or the designee of the Secretary;

[''(ii) be open to parties involved in the development, manufacture, distribution, purchase, or sale of priority countermeasures, as determined by the Secretary;

[''(iii) be open to the Attorney General and the Chairperson;

[''(iv) be limited to discussions involving the development, manufacture, distribution, or sale of priority countermeasures, consistent with the purposes of this title; and

[''(v) be conducted in such manner as to ensure that national security, confidential, and proprietary information is not disclosed outside the meeting or consultation.

[''(C) MINUTES.—The Secretary shall maintain minutes of meetings and consultations under this subsection, which shall not be disclosed under section 552 of title 5, United States Code.

[''(D) EXEMPTION.—The antitrust laws shall not apply to meetings and consultations under this paragraph, except that any agreement that results from a meeting or consultation and that has been denied an exemption pursuant to this subsection shall be subject to the antitrust laws.

[''(2) WRITTEN AGREEMENTS OR CONDUCT.—The Secretary or any party to an agreement or other conduct regarding covered activities entered into or undertaken pursuant to meetings or consultations conducted under paragraph (1), and that is consistent with this paragraph, shall file such written agreement or a description of the conduct involved with the Attorney General and the Chairperson for a determination of whether such agreement or conduct should be exempt from the antitrust laws. In addition to the proposed agreement or description of conduct itself, any such filing shall include—

[''(A) an explanation of the intended purpose of the agreement or conduct;

[''(B) a specific statement of the substance of the agreement or conduct;

[''(C) a description of the methods that will be utilized to achieve the objectives of the agreement or conduct;

[''(D) an explanation of the necessity of a cooperative effort among the particular participating parties to achieve the objectives of the agreement or conduct; and

[''(E) any other relevant information reasonably requested by the Attorney General, in consultation with the Chairperson and the Secretary.

[''(3) DETERMINATION.—The Attorney General, in consultation with the Chairperson,

shall determine whether an agreement or description of conduct submitted under paragraph (2) should be exempt from the antitrust laws.

[''(4) LIMITED ANTITRUST EXEMPTION.—

[''(A) IN GENERAL.—The Attorney General, in consultation with the Chairperson, may, within 30 days of the receipt of a notification pursuant to paragraph (2), revoke in whole or in part, the scope of any exemption granted by the Attorney General under a determination under paragraph (3).

[''(B) EXTENSION.—The Attorney General may extend the 35-day period referred to in subparagraph (A) for an additional period of not to exceed 20 days. Such additional period may be further extended only by the United States district court, upon an application by the Attorney General after notice to the Secretary and the parties involved.

[''(C) APPLICATION OF LAWS.—

[''(i) IN GENERAL.—The antitrust laws shall not apply to an agreement or conduct (described in a description of conduct) that is submitted for review pursuant to paragraph (2) until such time as the Attorney General determines, pursuant to subparagraph (D), that such agreement or conduct should not, in whole or in part, be exempt from the antitrust laws.

[''(ii) LIMITED LIABILITY.—No party to an agreement or conduct referred to in clause (i) shall be liable under the antitrust laws for any actions reasonably necessary to carry out the agreement or for conduct taken after the agreement or description has been submitted pursuant to paragraph (2) and prior to any revocation of the exemption by the Attorney General pursuant to subparagraph (D).

[''(D) DETERMINATION.—In making a determination under this subparagraph, the Attorney General, in consultation with the Chairperson and the Secretary shall consider—

[''(i) whether the agreement or conduct involved would facilitate the availability of priority countermeasures;

[''(ii) whether the exemption from the antitrust laws would promote the public interest;

[''(iii) the competitive impact to areas not directly related to the purposes of the agreement or conduct; and

[''(iv) any other factors determined relevant by the Attorney General and the Chairperson.

[''(5) LIMITATION ON AND RENEWAL OF EXEMPTIONS.—An exemption provided under paragraphs (3) or (4) shall be limited to covered activities, and shall expire on the date that is 3 years after the date on which the exemption becomes effective (and at 3 year intervals thereafter, if renewed) unless the Attorney General in consultation with the Chairperson determines that the exemption should be renewed (with modifications, as appropriate) considering the factors described in paragraph (4).

[''(6) LIMITATION ON PARTIES.—Any exemption from the antitrust laws provided under this subsection shall not apply to the use of any information acquired in conducting exempted activities for any purposes other than those expressly specified in the antitrust exemption provided for by this subsection.

[''(7) GUIDELINES.—The Attorney General and the Chairperson may develop and issue guidelines to implement this subsection.

[''(8) REPORT.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Attorney General and the Chairperson shall report to the Committee on Health, Education, Labor, and Pensions and the Committee on the Judiciary of the Senate and the Committee on Energy and Commerce and the Committee on the Judiciary of the House of Representatives on the use and continuing need for the exemption from the antitrust laws provided by this subsection.

[''(9) SUNSET.—The authority of any party to apply for or to obtain a limited antitrust exemption under this subsection shall expire at the end of the 6-year period that begins on the date of enactment of this subsection.

[''(l) DEFINITIONS.—In this section:

[''(1) ANTITRUST LAWS.—The term 'antitrust laws'—

[''(A) has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (15 U.S.C. 13 et seq.) commonly known as the Robinson-Patman Act), and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

[''(B) includes any State law similar to the laws referred to in subparagraph (A).

[''(2) COVERED ACTIVITIES.—

[''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'covered activities' means any group of activities or conduct, including attempting to make, making, or performing a contract or agreement or engaging in other conduct, for the purpose of—

[''(i) theoretical analysis, experimentation, or the systematic study of phenomena or observable facts related to the development of priority countermeasures;

[''(ii) the development or testing of basic engineering techniques related to the development of priority countermeasures;

[''(iii) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes related to the development of priority countermeasures;

[''(iv) the production, distribution, or marketing of a product, process, or service related to the development of priority countermeasures;

[''(v) the testing in connection with the production of a product, process, or service related to the development of priority countermeasures;

[''(vi) the collection, exchange, and analysis of research or production information related to the development of priority countermeasures; or

[''(vii) any combination of the purposes described in clauses (i) through (vi);

and such term may include the establishment and operation of facilities for the conduct of covered activities described in clauses (i) through (vi), the conduct of such covered activities on a protracted and proprietary basis, and the processing of applications for patents and the granting of licenses for the results of such covered activities.

[''(B) EXCEPTION.—The term 'covered activities' shall not include the following activities involving 2 or more persons:

[''(i) Exchanging information among competitors relating to costs, sales, profitability, prices, marketing, or distribution of any product, process, or service if such information is not reasonably necessary to carry out the purposes of covered activities.

[''(ii) Entering into any agreement or engaging in any other conduct—

[''(I) to restrict or require the sale, licensing, or sharing of inventions, developments, products, processes, or services not developed through, produced by, or distributed or sold through such covered activities; or

[''(II) to restrict or require participation by any person who is a party to such covered activities in other research and development activities, that is not reasonably necessary to prevent the misappropriation of proprietary information contributed by any person who is a party to such covered activities or of the results of such covered activities.

[''(iii) Entering into any agreement or engaging in any other conduct allocating a market with a competitor that is not expressly exempted from the antitrust laws by a determination under subsection (k)(4).

[''(iv) Exchanging information among competitors relating to production (other than production by such covered activities) of a product, process, or service if such information is not reasonably necessary to carry out the purpose of such covered activities.

[''(v) Except as otherwise provided in this subsection or subsection (k), entering into any agreement or engaging in any other conduct to restrict or require participation by any person who is a party to such activities, in any unilateral or joint activity that is not reasonably necessary to carry out the purpose of such covered activities.

[''(3) DEVELOPMENT.—The term 'development' includes the identification of suitable compounds or biological materials, the conduct of preclinical and clinical studies, the preparation of an application for marketing approval, and any other actions related to preparation of a countermeasure.

[''(4) PERSON.—The term 'person' has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

[''(5) PRIORITY COUNTERMEASURE.—The term 'priority countermeasure' means a countermeasure, including a drug, medical device, biological product, or diagnostic test to treat, identify, or prevent infection by a biological agent or toxin on the list developed under section 351A(a)(1) and prioritized under subsection (a)(1).''.

[TITLE III—IMPROVED VACCINE AFFORDABILITY AND AVAILABILITY

[SEC. 301. SHORT TITLE.

[This title may be cited as the ''Improved Vaccine Affordability and Availability Act''.

[Subtitle A—State Vaccine Grants

[SEC. 311. AVAILABILITY OF INFLUENZA VACCINE.

[Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)) is amended by adding at the end the following:

[''(3)(A) For the purpose of carrying out activities relating to influenza vaccine under the immunization program under this subsection, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003 and 2004. Such authorization shall be in addition to amounts available under paragraphs (1) and (2) for such purpose.

[''(B) The authorization of appropriations established in subparagraph (A) shall not be effective for a fiscal year unless the total amount appropriated under paragraphs (1) and (2) for the fiscal year is not less than such total for fiscal year 2000.

[''(C) The purposes for which amounts appropriated under subparagraph (A) are available to the Secretary include providing for improved State and local infrastructure for influenza immunizations under this subsection in accordance with the following:

[''(i) Increasing influenza immunization rates in populations considered by the Secretary to be at high risk for influenza-related complications and in their contacts.

[''(ii) Recommending that health care providers actively target influenza vaccine that is available in September, October, and November to individuals who are at increased risk for influenza-related complications and to their contacts.

[''(iii) Providing for the continued availability of influenza immunizations through

December of such year, and for additional periods to the extent that influenza vaccine remains available.

[''(iv) Encouraging States, as appropriate, to develop contingency plans (including plans for public and professional educational activities) for maximizing influenza immunizations for high-risk populations in the event of a delay or shortage of influenza vaccine.

[''(D) The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, periodic reports describing the activities of the Secretary under this subsection regarding influenza vaccine. The first such report shall be submitted not later than June 6, 2003, the second report shall be submitted not later than June 6, 2004, and subsequent reports shall be submitted biennially thereafter.''.

[SEC. 312. PROGRAM FOR INCREASING IMMUNIZATION RATES FOR ADULTS AND ADOLESCENTS; COLLECTION OF ADDITIONAL IMMUNIZATION DATA.

[(a) ACTIVITIES OF CENTERS FOR DISEASE CONTROL AND PREVENTION.—Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)), as amended by section 311, is further amended by adding at the end the following:

[''(4)(A) For the purpose of carrying out activities to increase immunization rates for adults and adolescents through the immunization program under this subsection, and for the purpose of carrying out subsection (k)(2), there are authorized to be appropriated $50,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006. Such authorization is in addition to amounts available under paragraphs (1), (2), and (3) for such purposes.

[''(B) In expending amounts appropriated under subparagraph (A), the Secretary shall give priority to adults and adolescents who are medically underserved and are at risk for vaccine-preventable diseases, including as appropriate populations identified through projects under subsection (k)(2)(E).

[''(C) The purposes for which amounts appropriated under subparagraph (A) are available include (with respect to immunizations for adults and adolescents) the payment of the costs of storing vaccines, outreach activities to inform individuals of the availability of the immunizations, and other program expenses necessary for the establishment or operation of immunization programs carried out or supported by States or other public entities pursuant to this subsection.

[''(5) The Secretary shall annually submit to Congress a report that—

[''(A) evaluates the extent to which the immunization system in the United States has been effective in providing for adequate immunization rates for adults and adolescents, taking into account the applicable year 2010 health objectives established by the Secretary regarding the health status of the people of the United States; and

[''(B) describes any issues identified by the Secretary that may affect such rates.

[''(6) In carrying out this subsection and paragraphs (1) and (2) of subsection (k), the Secretary shall consider recommendations regarding immunizations that are made in reports issued by the Institute of Medicine of the National Academy of Sciences.''.

[(b) RESEARCH, DEMONSTRATIONS, AND EDUCATION.—Section 317(k) of the Public Health Service Act (42 U.S.C. 247b(k)) is amended—

[(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

[(2) by inserting after paragraph (1) the following:

[''(2)(A) The Secretary, directly and through grants under paragraph (1), shall provide for a program of research, demonstration projects, and education in accordance with the following:

[''(i) The Secretary shall coordinate with public and private entities (including nonprofit private entities), and develop and disseminate guidelines, toward the goal of ensuring that immunizations are routinely offered to adults and adolescents by public and private health care providers.

[''(ii) The Secretary shall cooperate with public and private entities to obtain information for the annual evaluations required in subsection (j)(5)(A).

[''(iii) The Secretary shall (relative to fiscal year 2003) increase the extent to which the Secretary collects data on the incidence, prevalence, and circumstances of diseases and adverse events that are experienced by adults and adolescents and may be associated with immunizations, including collecting data in cooperation with commercial laboratories.

[''(iv) The Secretary shall ensure that the entities with which the Secretary cooperates for purposes of subparagraphs (A) through (C) include managed care organizations, community-based organizations that provide health services, and other health care providers.

[''(v) The Secretary shall provide for projects to identify racial and ethnic minority groups and other health disparity populations for which immunization rates for adults and adolescents are below such rates for the general population, and to determine the factors underlying such disparities.

[''(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2003 through 2007.''.

[SEC. 313. IMMUNIZATION AWARENESS.

[(a) DEVELOPMENT OF INFORMATION CONCERNING MENINGITIS.—

[(1) IN GENERAL.—The Secretary of Health and Human Services (in this title referred to as the ''Secretary''), in consultation with the Director of the Centers for Disease Control and Prevention, shall develop and make available to entities described in paragraph (2) information concerning bacterial meningitis and the availability and effectiveness of vaccinations for populations targeted by the Advisory Committee on Immunization Practices (an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention).

[(2) ENTITIES.—An entity is described in this paragraph if the entity—

[(A) is—

[(i) a college or university; or

[(ii) any other facility with a setting similar to a dormitory that houses age-appropriate populations for whom the Advisory Committee on Immunization Practices recommends such a vaccination; and

[(B) is determined appropriate by the Secretary.

[(b) DEVELOPMENT OF INFORMATION CONCERNING HEPATITIS.—

[(1) IN GENERAL.—The Secretary, in consultation with the Director of the Centers for Disease Control and Prevention, shall develop and make available to entities described in paragraph (2) information concerning hepatitis A and B and the availability and effectiveness of vaccinations with respect to such diseases.

[(2) ENTITIES.—An entity is described in this paragraph if the entity—

[(A) is—

[(i) a health care clinic that serves individuals diagnosed as being infected with HIV or as having other sexually transmitted diseases;

[(ii) an organization or business that counsels individuals about international travel or who arranges for such travel;

[(iii) a police, fire, or emergency medical services organization that responds to natural or man-made disasters or emergencies;

[(iv) a prison or other detention facility;

[(v) a college or university; or

[(vi) a public health authority or children's health service provider in areas of intermediate or high endemicity for hepatitis A as defined by the Centers for Disease Control and Prevention; and

[(B) is determined appropriate by the Secretary.

[SEC. 314. SUPPLY OF VACCINES.

[(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall prioritize, acquire, and maintain a supply of such prioritized vaccines sufficient to provide vaccinations throughout a 6-month period.

[(b) PROCEEDS.—Any proceeds received by the Secretary of Health and Human Services from the sale of vaccines contained in the supply described in subsection (a), shall be available to the Secretary for the purpose of purchasing additional vaccines for the supply. Such proceeds shall remain available until expended.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out subsection (a) such sums as may be necessary for each of fiscal years 2003 through 2008.

[SEC. 315. COMMUNICATION.

[The Commissioner of Food and Drugs shall ensure that vaccine manufacturers receive all forms of compliance guidelines for vaccines and that such guidelines are kept up to date.

[SEC. 316. FAST TRACK.

[The Commissioner of Food and Drugs shall issue regulations to revise the policies of the Food and Drug Administration regarding fast-tracking and priority review approval of vaccine products currently under development, to allow for the use of new forms of existing vaccines in cases where a determination is made that applying such approvals is in the public health interest to address the unmet need of strengthening the overall vaccine supply.

[SEC. 317. STUDY.

[(a) IN GENERAL.—The Secretary shall contract with the Institute of Medicine of the National Academy of Sciences or another independent and competent authority, to conduct a study of the statutes, regulations, guidelines, and compliance, inspection, and enforcement practices and policies of the Department of Health and Human Services and of the Food and Drug Administration that are applicable to vaccines intended for human use that are in periodic short supply in the United States.

[(b) REQUIREMENTS.—The study under subsection (a) shall include a review of the regulatory requirements, guidelines, practices, and policies—

[(1) for the development and licensing of vaccines and the licensing of vaccine manufacturing facilities;

[(2) for inspections and other activities for maintaining compliance and enforcement of the requirements applicable to such vaccines and facilities; and

[(3) that may have contributed to temporary or long-term shortages of vaccines.

[(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that contains—

[(1) the results of the study under subsection (a); and

[(2) recommendations for modifications to the regulatory requirements, guidelines, practices, and policies described in subsection (b).

[Subtitle B—Vaccine Injury Compensation Program

[SEC. 321. ADMINISTRATIVE REVISION OF VACCINE INJURY TABLE.

[Section 2114 of the Public Health Service Act (42 U.S.C. 300aa–14) is amended—

[(1) by striking subsection (c)(1) and inserting the following:

[''(1) The Secretary may promulgate regulations to modify in accordance with paragraph (3) the Vaccine Injury Table. In promulgating such regulations, the Secretary shall provide for notice and for at least 60 days of public comment.''; and

[(2) in subsection (d), by striking ''90 days'' and inserting ''60 days''.

[SEC. 322. EQUITABLE RELIEF.

[Section 2111(a)(2)(A) of the Public Health Service Act (42 U.S.C. 300aa–11(a)(2)(A)) is amended by striking ''No person'' and all that follows through ''and—'' and inserting the following: ''No person may bring or maintain a civil action against a vaccine administrator or manufacturer in a Federal or State court for damages arising from, or equitable relief relating to, a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988 and no such court may award damages or equitable relief for any such vaccine-related injury or death, unless the person proves past or present physical injury and a timely petition has been filed in accordance with section 2116 for compensation under the Program for such injury or death and—''.

[SEC. 323. DERIVATIVE PETITIONS FOR COMPENSATION.

[(a) LIMITATIONS ON DERIVATIVE PETITIONS.—Section 2111(a)(2) of the Public Health Service Act (42 U.S.C. 300aa–11(a)(2)) is amended—

[(1) in subparagraph (B), by inserting ''or (B)'' after ''subparagraph (A)'';

[(2) by redesignating subparagraph (B) as subparagraph (C); and

[(3) by inserting after subparagraph (A) the following:

[''(B)(i) No parent or other third party may bring or maintain a civil action against a vaccine administrator or manufacturer in a Federal or State court for damages or equitable relief relating to a vaccine-related injury or death, including without limitation damages for loss of consortium, society, companionship, or services, loss of earnings, medical or other expenses, and emotional distress, and no court may award damages or equitable relief in such an action, unless—

[''(I) the person who sustained the underlying vaccine-related injury or death upon which such parent's or other third party's claim is premised has timely filed a petition for compensation in accordance with section 2111;

[''(II) such parent or other third party is the legal representative or spouse of the person who sustained the underlying vaccine-related injury or death, and such legal representative or spouse has filed a timely derivative petition, in accordance with section 2116; and

[''(III)(aa) the United States Court of Federal Claims has issued judgment under section 2112 on the derivative petition, and such legal representative or spouse elects under section 2121(a) to file a civil action; or

[''(bb) such legal representative or spouse elects to withdraw such derivative petition under section 2121(b) or such petition is considered withdrawn under such section.

[''(ii) Any civil action brought in accordance with this subparagraph shall be subject to the standards and procedures set forth in sections 2122 and 2123, regardless of whether the action arises directly from a vaccine-related injury or death associated with the administration of a vaccine. In a case in which the person who sustained the underlying vaccine-related injury or death upon which such legal representative's or spouse's civil action is premised elects under section 2121(a) to receive the compensation awarded, such legal representative or spouse may not bring a civil action for damages or equitable relief, and no court may award damages or equitable relief, for any injury or loss of the type set forth in section 2115(a) or that might in any way overlap with or otherwise duplicate compensation of the type available under section 2115(a).''.

[(b) ELIGIBLE PERSONS.—Section 2111(a)(9) of the Public Health Service Act (42 U.S.C. 300aa–11(a)(9)) is amended by striking the period and inserting ''and to a parent or other third party to the extent such parent or other third party seeks damages or equitable relief relating to a vaccine-related injury or death sustained by a person who is qualified to file a petition for compensation under the Program.''.

[(c) PETITIONERS.—Section 2111(b) of the Public Health Service Act (42 U.S.C. 300aa–11(b)) is amended—

[(1) in paragraph (1)—

[(A) in subparagraph (A), by striking ''(B)'' and inserting ''(C)'';

[(B) by redesignating subparagraph (B) as subparagraph (C); and

[(C) by inserting after subparagraph (A) the following:

[''(B) Except as provided in subparagraph (C), any legal representative or spouse of a person—

[''(i) who has sustained a vaccine-related injury or death; and

[''(ii) who has filed a petition for compensation under the Program (or whose legal representative has filed such a petition as authorized in subparagraph (A));

may, if such legal representative or spouse meets the requirements of subsection (d), file a derivative petition under this section.''; and

[(2) in paragraph (2)—

[(A) by inserting ''by or on behalf of the person who sustained the vaccine-related injury or death'' after ''filed''; and

[(B) by adding at the end the following: ''A legal representative or spouse may file only 1 derivative petition with respect to each underlying petition.''.

[(d) DERIVATIVE PETITION CONTENTS.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa–11) is amended—

[(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

[(2) by inserting after subsection (c) the following:

[''(d) DERIVATIVE PETITIONS.—

[''(1) If the legal representative or spouse of the person who sustained the vaccine-related injury or death seeks compensation under the Program, such legal representative or spouse shall file a timely derivative petition for compensation under the Program in accordance with this section.

[''(2) Such a derivative petition shall contain—

[''(A) except for records that are unavailable as described in subsection (c)(3), an affidavit, and supporting documentation, demonstrating that—

[''(i) the child or spouse of such person has, in accordance with section 2111, timely filed a petition for compensation for the underlying vaccine-related injury or death upon which such legal representative's or spouse's derivative petition is premised;

[''(ii) the derivative petition was timely filed;

[''(iii) such legal representative or spouse suffered a loss compensable under section 2115(b) as a result of the vaccine-related injury or death sustained by such person; and

[''(iv) such legal representative or spouse has not previously collected an award or settlement of a civil action for damages for such loss; and

[''(B) records establishing such legal representative's or spouse's relationship to the person who sustained the vaccine-related injury or death.''.

[(e) DETERMINATION OF ELIGIBILITY FOR COMPENSATION.—Section 2113(a)(1) of the Public Health Service Act (42 U.S.C. 300aa–13(a)(1)) is amended—

[(1) in subparagraph (A), by striking ''and'' and inserting ''or, as applicable, section 2111(d),'';

[(2) in subparagraph (B), by striking the period and inserting '', and''; and

[(3) by inserting before the flush matter at the end, the following:

[''(C) in the case of a derivative petition, that the person who sustained the underlying vaccine-related injury or death upon which the derivative petition is premised has timely filed a petition for compensation in accordance with section 2111 and that, with respect to such underlying petition, the special master or court has made the findings specified in subparagraphs (A) and (B) of this paragraph.''.

[(f) COMPENSATION.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa–15) is amended—

[(1) by redesignating subsections (b) through (j) as subsections (c) through (k), respectively;

[(2) by inserting after subsection (a) the following:

[''(b) DERIVATIVE PETITIONS.—

[''(1) IN GENERAL.—Compensation awarded under the Program to a legal representative or spouse who files a derivative petition under section 2111 for a loss sustained as a result of a vaccine-related injury or death sustained by such petitioner's child or spouse shall only include compensation for any loss of consortium, society, companionship, or services, in an amount not to exceed the lesser of $250,000 or the total amount of compensation awarded to the person who sustained the underlying vaccine-related injury or death.

[''(2) MULTIPLE INDIVIDUALS.—Where more than 1 person files a derivative petition under section 2111 for losses sustained as a result of the same underlying vaccine-related injury or death, the aggregate compensation to such persons shall not exceed the lesser of $250,000, or the total amount of compensation awarded to the person who sustained the underlying vaccine-related injury or death. The special master or court shall apportion compensation among the derivative petitioners in proportion to their respective losses.'';

[(3) in subsection (e)(2), as so redesignated by paragraph (1)—

[(A) by striking ''(2) and (3)'' and inserting ''(2), (3), (4), (5), and (6)''; and

[(B) by inserting ''and subsection (b),'' after ''(a),'';

[(4) in subsection (g), as so redesignated by paragraph (1), in paragraph (4)(B), by striking ''subsection (j)'' and inserting ''subsection (k)'';

[(5) in subsection (j), as so redesignated by paragraph (1)—

[(A) in paragraph (1), by striking ''subsection (j)'' and inserting ''subsection (k)''; and

[(B) in paragraph (2), by inserting '', or to a legal representative or spouse of a person

who sustained a vaccine-related injury or death,'' after ''death''; and

[(6) in subsection (k), as so redesignated by paragraph (1), by striking ''subsection (f)(4)(B)'' and inserting ''subsection (g)(4)(B)''.

[SEC. 324. JURISDICTION TO DISMISS ACTIONS IMPROPERLY BROUGHT.

[Section 2111(a)(3) of the Public Health Service Act (42 U.S.C. 300aa–11(a)(3)) is amended by adding at the end the following: ''If any civil action which is barred under subparagraph (A) or (B) of paragraph (2) is filed or maintained in a State court, or any vaccine administrator or manufacturer is made a party to any civil action brought in State court (other than a civil action which may be brought under paragraph (2)) for damages or equitable relief for a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, the civil action may be removed at any time before final judgment by the defendant or defendants to the United States Court of Federal Claims. Once removed, the United States Court of Federal Claims shall have jurisdiction solely for the purpose of adjudicating whether the civil action should be dismissed pursuant to this section. If the United States Court of Federal Claims determines that the civil action should not be dismissed, the court shall remand the action to the State Court. The notice required by section 1446 of title 28, United States Code, shall be filed with the United States Court of Federal Claims, and that court shall, except as otherwise provided in this section, proceed in accordance with sections 1446 through 1451 of title 28, United States Code.''.

[SEC. 325. CLARIFICATION OF WHEN INJURY IS CAUSED BY FACTOR UNRELATED TO ADMINISTRATION OF VACCINE.

[Section 2113(a)(2)(B) of the Public Health Service Act (42 U.S.C. 300aa–13(a)(2)(B)) is amended—

[(1) by inserting ''structural lesions, genetic disorders,'' after ''and related anoxia),'';

[(2) by inserting ''(without regard to whether the cause of the infection, toxin, trauma, structural lesion, genetic disorder, or metabolic disturbance is known)'' after ''metabolic disturbances''; and

[(3) by striking ''but'' and inserting ''and''.

[SEC. 326. INCREASE IN AWARD IN THE CASE OF A VACCINE-RELATED DEATH AND FOR PAIN AND SUFFERING.

[(a) IN GENERAL.—Section 2115(a) of the Public Health Service Act (42 U.S.C. 300aa–15(a)) is amended—

[(1) in paragraph (2), by striking ''$250,000'' and inserting ''$350,000''; and

[(2) in paragraph (4), by striking ''$250,000'' and inserting ''$350,000''.

[(b) DEATH AWARDS.—Section 2115(a)(2) of the Public Health Service Act (42 U.S.C. 300aa–15(a)(2)) is amended by inserting ''(if the deceased incurred unreimbursable expenses due to the vaccine-related injury prior to death in excess of $50,000, the award shall also include reimbursement for those unreimbursable expenses that exceed $50,000)'' before the period.

[SEC. 327. BASIS FOR CALCULATING PROJECTED LOST EARNINGS.

[Section 2115(a)(3)(B) of the Public Health Service Act (42 U.S.C. 300aa–15(a)(3)(B)) is amended by striking ''loss of earnings'' and all that follows and inserting the following: ''loss of earnings determined on the basis of the annual estimate of the average (mean) gross weekly earnings of wage and salary workers age 18 and over (excluding the incorporated self-employed) in the private nonfarm sector (which includes all industries other than agricultural production crops and livestock), as calculated annually by the Bureau of Labor Statistics from the quarter sample data of the Current Population Survey, or as calculated by such similar method as the Secretary may prescribe by regulation, less appropriate taxes and the average cost of a health insurance policy, as determined by the Secretary.''.

[SEC. 328. ALLOWING COMPENSATION FOR FAMILY COUNSELING EXPENSES AND EXPENSES OF ESTABLISHING AND MAINTAINING GUARDIANSHIP.

[(a) FAMILY COUNSELING EXPENSES IN POST-1988 CASES.—Section 2115(a) of the Public Health Service Act (42 U.S.C. 300aa–15(a)) is amended by adding at the end the following:

[''(5) Actual unreimbursable expenses that have been or will be incurred for family counseling as is determined to be reasonably necessary and that result from the vaccine-related injury from which the petitioner seeks compensation.''.

[(b) EXPENSES OF ESTABLISHING AND MAINTAINING GUARDIANSHIPS IN POST-1988 CASES.—Section 2115(a) of the Public Health Service Act (42 U.S.C. 300aa–15(a)), as amended by subsection (a), is further amended by adding at the end the following:

[''(6) Actual unreimbursable expenses that have been, or will be reasonably incurred to establish and maintain a guardianship or conservatorship for an individual who has suffered a vaccine-related injury, including attorney fees and other costs incurred in a proceeding to establish and maintain such guardianship or conservatorship.''.

[(c) CONFORMING AMENDMENT FOR CASES FROM 1988 AND EARLIER.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa–15) is amended in subsection (c), as so redesignated by section 323(f)—

[(1) in paragraph (2), by striking ''and'' at the end;

[(2) in paragraph (3), by striking ''(e)'' and inserting ''(f)'';

[(3) by redesignating paragraph (3) as paragraph (5); and

[(4) by inserting after paragraph (2), the following:

[''(3) family counseling expenses (as provided for in paragraph (5) of subsection (a));

[''(4) expenses of establishing and maintaining guardianships (as provided for in paragraph (6) of subsection (a)); and''.

[SEC. 329. ALLOWING PAYMENT OF INTERIM COSTS.

[Section 2115 of the Public Health Service Act (42 U.S.C. 300aa–15) is amended in subsection (f), as so redesignated by section 323(f), by adding at the end the following:

[''(4) A special master or court may make an interim award of costs subject to final adjustment if—

[''(A) the case involves a vaccine administered on or after October 1, 1988;

[''(B) the special master or court has determined that the petitioner is entitled to compensation under the Program;

[''(C) the award is limited to other costs (within the meaning of paragraph (1)(B)) incurred in the proceeding;

[''(D) not more than 1 prior award has been made with respect to such petition; and

[''(E) the petitioner provides documentation verifying the expenditure of the amount for which compensation is sought.''.

[SEC. 330. PROCEDURE FOR PAYING ATTORNEYS' FEES.

[Section 2115 of the Public Health Service Act (42 U.S.C. 300aa–15), is amended in subsection (f), as so redesignated by section 323(f) and amended by section 329, by adding at the end the following:

[''(5) When a special master or court awards attorney fees or costs under paragraph (1) or (4), it may order that such fees or costs be payable solely to the petitioner's attorney if—

[''(A) the petitioner expressly consents; or

[''(B) the special master or court determines, after affording to the Secretary and to all interested persons the opportunity to submit relevant information, that—

[''(i) the petitioner cannot be located or refuses to respond to a request by the special master or court for information, and there is no practical alternative means to ensure that the attorney will be reimbursed for such fees or costs expeditiously; or

[''(ii) there are otherwise exceptional circumstances and good cause for paying such fees or costs solely to the petitioner's attorney.''.

[SEC. 331. EXTENSION OF STATUTE OF LIMITATIONS.

[(a) GENERAL RULE.—Section 2116(a) of the Public Health Service Act (42 U.S.C. 300aa–16(a)) is amended—

[(1) in paragraph (2), by striking ''36 months'' and inserting ''6 years''; and

[(2) in paragraph (3), by striking ''48 months'' and inserting ''6 years''.

[(b) CLAIMS BASED ON REVISIONS TO TABLE.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa–16) is amended by striking subsection (b) and inserting the following:

[''(b) EFFECT OF REVISED TABLE.—If at any time the Vaccine Injury Table is revised and the effect of such revision is to make an individual eligible for compensation under the program, where, before such revision, such individual was not eligible for compensation under the program, or to significantly increase the likelihood that an individual will be able to obtain compensation under the program, such person may, and shall before filing a civil action for equitable relief or monetary damages, notwithstanding section 2111(b)(2), file a petition for such compensation if—

[''(1) the vaccine-related death or injury with respect to which the petition is filed occurred not more than 10 years before the effective date of the revision of the table; and

[''(2) either—

[''(A) the petition satisfies the conditions described in subsection (a); or

[''(B) the date of the occurrence of the first symptom or manifestation of onset of the injury occurred more than 4 years before the petition is filed, and the petition is filed not more than 2 years after the effective date of the revision of the table.''.

[(c) DERIVATIVE PETITIONS.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa–16) is amended by adding at the end the following:

[''(d) DERIVATIVE PETITIONS.—No derivative petition may be filed for compensation under the Program later than the earlier of—

[''(1) the last day on which the petition for compensation for the underlying claim of the person who sustained the vaccine-related injury or death upon which the derivative petition is premised may be timely filed; or

[''(2) 60 days after the date on which the special master has issued a decision pursuant to section 2112(d)(3) on the underlying claim of the person who sustained the vaccine-related injury or death upon which the derivative petition is premised.''.

[(d) TIMELY RESOLUTIONS OF CLAIMS.—

[(1) SPECIAL MASTER DECISION.—Section 2112(d)(3)(A) of the Public Health Service Act (42 U.S.C. 300aa–12(d)(3)(A)) is amended by adding at the end the following: ''For purposes of this subparagraph, the petition shall be deemed to be filed on the date on which the special master issues a certificate of completeness, indicating that all petition contents and supporting documents required under section 2111(c) and, when applicable, section 2111(d) and the Vaccine Rules of the United States Court of Federal Claims, such as an affidavit and supporting documentation, have been served on the Secretary and

filed with the clerk of the United States Court of Federal Claims.''.

[(2) DERIVATIVE PETITIONS.—Section 2112(d)(3)(C) of the Public Health Service Act (42 U.S.C. 300aa–12(d)(3)(C)) is amended by adding at the end the following: ''With respect to any derivative petition filed under section 2111, the period of time during which the petition for compensation for the underlying vaccine-related injury or death upon which such derivative petition is premised is pending shall be treated as a suspension for purposes of this subparagraph.''.

[(3) COURT OF FEDERAL CLAIMS DECISION.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa–21(b)) is amended by adding at the end the following: ''For purposes of this subsection, the petition shall be deemed to be filed on the date on which the special master issues a certificate of completeness, indicating that all petition contents and supporting documents required under section 2111(c) and, when applicable, section 2111(d) and the Vaccine Rules of the United States Court of Federal Claims, such as an affidavit and supporting documentation, have been served on the Secretary and filed with the clerk of the United States Court of Federal Claims.''.

[SEC. 332. ADVISORY COMMISSION ON CHILDHOOD VACCINES.

[(a) SELECTION OF PERSONS INJURED BY VACCINES AS PUBLIC MEMBERS.—Section 2119(a)(1)(B) of the Public Health Service Act (42 U.S.C. 300aa–19(a)(1)(B)) is amended by striking ''of whom'' and all that follows and inserting the following: ''of whom 1 shall be the legal representative of a child who has suffered a vaccine-related injury or death, and at least 1 other shall be either the legal representative of a child who has suffered a vaccine-related injury or death or an individual who has personally suffered a vaccine-related injury.''.

[(b) MANDATORY MEETING SCHEDULE ELIMINATED.—Section 2119(c) of the Public Health Service Act (42 U.S.C. 300aa–19(c)) is amended by striking ''not less often than four times per year and''.

[SEC. 333. CLARIFICATION OF STANDARDS OF RESPONSIBILITY.

[(a) GENERAL RULE.—Section 2122(a) of the Public Health Service Act (42 U.S.C. 300aa–22(a)) is amended by striking ''and (e) State law shall apply to a civil action brought for damages'' and inserting ''(d), and (f) State law shall apply to a civil action brought for damages or equitable relief''; and

[(b) UNAVOIDABLE ADVERSE SIDE EFFECTS.—Section 2122(b)(1) of the Public Health Service Act (42 U.S.C. 300aa–22(b)(1)) is amended by inserting ''or equitable relief'' after ''for damages''.

[(c) DIRECT WARNINGS.—Section 2122(c) of the Public Health Service Act (42 U.S.C. 300aa–22(c)) is amended by inserting ''or equitable relief'' after ''for damages''.

[(d) CONSTRUCTION.—Section 2122(d) of the Public Health Service Act (42 U.S.C. 300aa–22(d)) is amended—

[(1) by inserting ''or equitable relief'' after ''for damages''; and

[(2) by inserting ''or relief'' after ''which damages''.

[(e) PAST OR PRESENT PHYSICAL INJURY.—Section 2122 of the Public Health Service Act (42 U.S.C. 300aa–22) is amended—

[(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

[(2) by inserting after subsection (c) the following:

[''(d) PAST OR PRESENT PHYSICAL INJURY.—No vaccine manufacturer or vaccine administrator shall be liable in a civil action brought after October 1, 1988, for equitable or monetary relief absent proof of past or present physical injury from the administration of a vaccine, nor shall any vaccine manufacturer or vaccine administrator be liable in any such civil action for claims of medical monitoring, or increased risk of harm.''.

[SEC. 334. CLARIFICATION OF DEFINITION OF MANUFACTURER.

[Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa–33(3)) is amended—

[(1) in the first sentence, by striking ''under its label any vaccine set forth in the Vaccine Injury Table'' and inserting ''any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine''; and

[(2) in the second sentence, by inserting ''including any component or ingredient of any such vaccine'' before the period.

[SEC. 335. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

[Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa–33(5)) is amended by adding at the end the following: ''For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine's product license application or product label.''.

[SEC. 336. CLARIFICATION OF DEFINITION OF VACCINE AND DEFINITION OF PHYSICAL INJURY.

[Section 2133 of the Public Health Service Act (42 U.S.C. 300aa–33) is amended by adding at the end the following:

[''(7) The term 'vaccine' means any preparation or suspension, including a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body's immune response to a disease or diseases and includes all components and ingredients listed in the vaccine's product license application and product label.

[''(8) The term 'physical injury' means a manifest physical illness, condition, or death, including a neurological disease or disorder.''.

[SEC. 337. AMENDMENTS TO VACCINE INJURY COMPENSATION TRUST FUND.

[(a) EXPANSION OF COMPENSATED LOSS.—Section 9510(c)(1)(A) of the Internal Revenue Code of 1986 is amended by inserting '', or related loss,'' after ''death''.

[(b) INCREASE IN LIMIT ON ADMINISTRATIVE EXPENSES.—Subparagraph (B) of section 9510(c)(1) of the Internal Revenue Code of 1986 is amended—

[(1) by striking ''(but not in excess of the base amount of $9,500,000 for any fiscal year)''; and

[(2) by striking the period and inserting '', provided that such administrative costs shall not exceed the greater of—

[''(i) the base amount of $9,500,000 for any fiscal year,

[''(ii) 125 percent of the base amount for any fiscal year in which the total number of claims pending under such subtitle exceeds 150 percent of the average number of claims pending in the preceding 5 years,

[''(iii) 175 percent of the base amount for any fiscal year in which the total number of claims pending under such subtitle exceeds 200 percent of the average number of claims pending in the preceding 5 years,

[''(iv) 225 percent of the base amount for any fiscal year in which the total number of claims pending under such subtitle exceeds 250 percent of the average number of claims pending in the preceding 5 years, or

[''(v) 275 percent of the base amount for any fiscal year in which the total number of claims pending under such subtitle exceeds 300 percent of the average number of claims pending in the preceding 5 years.''.

[(c) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''October 18, 2000'' and inserting ''the date of enactment of the Improved Vaccine Affordability and Availability Act''.

[SEC. 338. ONGOING REVIEW OF CHILDHOOD VACCINE DATA.

[Part C of title XXI of the Public Health Service Act (42 U.S.C. 300a–25 et seq.) is amended by adding at the end the following:

[''SEC. 2129A. ONGOING REVIEW OF CHILDHOOD VACCINE DATA.

[''(a) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Secretary shall enter into a contract with the Institute of Medicine of the National Academy of Science under which the Institute shall conduct an ongoing, comprehensive review of new scientific data on childhood vaccines (according to priorities agreed upon from time to time by the Secretary and the Institute of Medicine).

[''(b) REPORTS.—Not later than 3 years after the date on which the contract is entered into under subsection (a), the Institute of Medicine shall submit to the Secretary a report on the findings of the studies conducted under such contract, including findings as to any adverse events associated with childhood vaccines, including conclusions concerning causation of adverse events by such vaccines, and other appropriate recommendations, based on such findings and conclusions.

[''(c) FAILURE TO ENTER INTO CONTRACT.—If the Secretary and the Institute of Medicine are unable to enter into the contract described in subsection (a), the Secretary shall enter into a contract with another qualified nongovernmental scientific organization for the purposes described in subsections (a) and (b).

[''(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003, 2004, 2005 and 2006.''.

[SEC. 339. PENDING ACTIONS.

[The amendments made by this title shall apply to all actions or proceedings pending on or after the date of enactment of this Act, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding.

[SEC. 340. REPORT.

[Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Advisory Commission on Childhood Vaccines shall report to the Secretary regarding the status of the Vaccine Injury Compensation Trust Fund, and shall make recommendations to the Secretary regarding the allocation of funds from the Vaccine Injury Compensation Trust Fund.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Project BioShield Act of 2003''.

SEC. 2. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT AUTHORITIES.

(a) IN GENERAL.—Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

''SEC. 409J. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—

''(1) AUTHORITY.—In carrying out research responsibilities under this Act, the Secretary may conduct and support research and development with respect to biomedical countermeasures.

''(2) IMPLEMENTATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), authorities assigned by this section to the Secretary shall be carried out through the Director of NIH.

''(B) LEAD INSTITUTE.—The National Institute of Allergy and Infectious Diseases shall be the lead institute for performing, administering, or supporting biomedical countermeasure research and development. The Director of NIH may delegate to the Director of the Institute authorities as are necessary to carry out this function.

''(C) CHEMICAL, RADIOLOGICAL, AND NUCLEAR AGENTS.—To the extent that an authority described in subparagraph (A) is exercised with respect to a chemical, radiological, or nuclear agent, the Secretary may authorize the Director of NIH to carry out the authority through any national research institute.

''(D) AVAILABILITY OF FACILITIES TO THE SECRETARY.—In any grant or cooperative agreement entered into under the authority provided in this section with respect to a biocontainment laboratory or other related or ancillary specialized research facility that the Secretary determines necessary for the purpose of preforming, administering, and supporting biomedical countermeasures research and development, the Secretary may provide that the facility that is the object of such grant or cooperative agreement shall be available as needed to the Secretary to respond to public health emergencies affecting national security.

''(3) INTERAGENCY COOPERATION.—

''(A) IN GENERAL.—In carrying out activities under this section, the Secretary is authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the Federal Government and to use other agencies of the Department of Health and Human Services.

''(B) LIMITATION.—An agreement or undertaking under this paragraph may not authorize another agency to exercise the authorities provided to the Secretary by this section.

''(b) EXPEDITED PROCUREMENT AUTHORITY.—

''(1) INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR BIOMEDICAL COUNTERMEASURE PROCUREMENTS.—

''(A) IN GENERAL.—For any procurement by the Secretary, of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasure research or development, the amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as applicable pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), shall be deemed to be $25,000,000 in the administration, with respect to such procurement, of—

''(i) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

''(ii) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

''(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements made under this paragraph, including requirements with respect to documenting the justification for use of the authority provided in this paragraph.

''(2) USE OF NONCOMPETITIVE PROCEDURES.—In addition to any other authority to use procedures other than competitive procedures for procurements, the Secretary may use such other noncompetitive procedures when—

''(A) the procurement is as described by paragraph (1)(A); and

''(B) the property or services needed by the Secretary are available from only one responsible source or only from a limited number of responsible sources, and no other type of property or services will meet the needs of the Secretary.

''(3) INCREASED MICROPURCHASE THRESHOLD.—

''(A) IN GENERAL.—For a procurement described by paragraph (1)(A), the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement.

''(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements that are made under this paragraph and that are greater than $2,500.

''(C) EXCEPTION TO PREFERENCE FOR PURCHASE CARD MECHANISM.—No provision of law establishing a preference for using a Federal Government purchase card method for purchases shall apply to procurements made under this paragraph and that are greater than $2,500.

''(c) AUTHORITY TO EXPEDITE PEER REVIEW.—The Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, employ such expedited peer review procedures (including consultation with appropriate scientific experts) as the Secretary, in consultation with the Director of NIH, determines to be appropriate to obtain an assessment of scientific and technical merit and likely contribution to the field of biomedical countermeasure research, in place of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494, as applicable to a grant, contract, or cooperative agreement—

''(1) that is for performing, administering, or supporting biomedical countermeasure research and development; and

''(2) the amount of which is not greater than $1,500,000.

''(d) AGENCY FACILITIES.—In addition to any similar authority provided under any other provision of law, in carrying out this section, the Secretary may—

''(1) acquire, lease, construct, improve, renovate, remodel, repair, operate, and maintain laboratories, other research facilities and equipment, and other real or personal property as the Secretary determines necessary for the purpose of performing, administering, and supporting biomedical countermeasure research and development; and

''(2) acquire, without regard to section 8141 of title 40, United States Code, by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia.

''(e) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—

''(1) IN GENERAL.—For the purpose of performing, administering, and supporting biomedical countermeasure research and development, the Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, obtain by contract (in accordance with section 3109 of title 5, United States Code, but without regard to the limitations in such section on the period of service and on pay) the personal services of experts or consultants who have scientific or other professional qualifications.

''(2) FEDERAL TORT CLAIMS ACT COVERAGE.—

''(A) IN GENERAL.—A person carrying out a contract under paragraph (1), and an officer, employee, or governing board member of such person, shall be deemed to be an employee of the Department of Health and Human Services for purposes of claims under sections 1346(b) and 2672 of title 28, United States Code, for money damages for personal injury, including death, resulting from performance of functions under such contract.

''(B) EXCLUSIVITY OF REMEDY.—The remedy provided by subparagraph (A) shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the person, officer, employee, or governing board member for any act or omission within the scope of the Federal Tort Claims Act.

''(C) RECOURSE IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

''(i) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this paragraph, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any person, officer, employee, or governing board member to carry out any obligation or responsibility assumed by such person, officer, employee, or governing board member under a contract with the United States or from any grossly negligent, reckless, or illegal conduct or willful misconduct on the part of such person, officer, employee, or governing board member.

''(ii) VENUE.—The United States may maintain an action under this subparagraph against such person, officer, employee, or governing board member in the district court of the United States in which such person, officer, employee, or governing board member resides or has its principal place of business.

''(3) INTERNAL CONTROLS TO BE INSTITUTED.—

''(A) IN GENERAL.—The Secretary shall institute appropriate internal controls for contracts under this subsection, including procedures for the Secretary to make a determination of whether a person, or an officer, employee, or governing board member of a person, is deemed to be an employee of the Department of Health and Human Services pursuant to paragraph (2).

''(B) DETERMINATION OF EMPLOYEE STATUS TO BE FINAL.—A determination by the Secretary under subparagraph (A) that a person, or an officer, employee, or governing board member of a person, is or is not deemed to be an employee of the Department of Health and Human Services shall be final and binding on the Secretary and the Attorney General and other parties to any civil action or proceeding.

''(4) NUMBER OF PERSONAL SERVICES CONTRACTS LIMITED.—The number of experts and consultants whose personal services are obtained under paragraph (1) shall not exceed 30 at any time.

''(f) STREAMLINED PERSONNEL AUTHORITY.—

''(1) IN GENERAL.—In addition to any other personnel authorities, the Secretary may, as the Secretary determines necessary to respond to pressing research and development needs under this section, without regard to such provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, appoint professional and technical employees, not to exceed 30 such employees at any time, to positions in the National Institutes of Health to perform, administer, or support biomedical countermeasure research and development in carrying out this section.

''(2) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for appointments under this subsection.

''(g) DEFINITION.—As used in this section, the term 'biomedical countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that is used—

''(1) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

''(2) to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in paragraph (1).

''(h) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions by the Secretary under the authority of this section are committed to agency discretion.''.

(b) TECHNICAL AMENDMENT.—Section 481A of the Public Health Service Act (42 U.S.C. 287a-2) is amended—

(1) in subsection (a)(1), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center'';

(2) in subsection (c)—

(A) in paragraph (1), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center''; and

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking ''subsection (i)'' and inserting ''subsection (i)(1)'';

(3) in subsection (d), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center'';

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center'';

(ii) in subparagraph (A), by inserting ''(or, in the case of the Institute, 75 percent)'' after ''50 percent''; and

(iii) in subparagraph (B), by inserting ''(or, in the case of the Institute, 75 percent)'' after ''40 percent'';

(B) in paragraph (2), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center''; and

(C) in paragraph (4), by inserting ''of the Center or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director''; and

(5) in subsection (f)—

(A) in paragraph (1), by inserting ''in the case of an award by the Director of the Center,'' before ''the applicant''; and

(B) in paragraph (2), by inserting ''of the Center or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director''.

SEC. 3. BIOMEDICAL COUNTERMEASURES PROCUREMENT.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319A, the following:

''SEC. 319A-1. BIOMEDICAL COUNTERMEASURES PROCUREMENT.

''(a) DETERMINATION OF MATERIAL THREATS.—

''(1) RISK OF USE.—The Secretary of Homeland Security, in consultation with the heads of other agencies as appropriate, shall on an ongoing basis—

''(A) assess current and emerging threats of use of chemical, biological, radiological, and nuclear agents; and

''(B) determine which of such agents present a material risk of use against the United States population.

''(2) PUBLIC HEALTH IMPACT.—The Secretary, in consultation with the Secretary of Homeland Security, shall on an ongoing basis—

''(A) assess the potential public health consequences of use against the United States population of agents identified under paragraph (1)(B); and

''(B) determine, on the basis of such assessment, the agents for which countermeasures are necessary to protect the public health.

''(b) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES.—The Secretary, in consultation with the Secretary of Homeland Security, shall assess on an ongoing basis the availability and appropriateness of specific countermeasures to address specific threats identified under subsection (a).

''(c) CALL FOR NECESSARY COUNTERMEASURES; COMMITMENT FOR RECOMMENDATION FOR PROCUREMENT.—

''(1) PROPOSAL TO THE PRESIDENT.—Based on a determination of necessary countermeasures under subsection (a), and the assessment of availability and appropriateness of countermeasures under subsection (b), the Secretary of Homeland Security and the Secretary may jointly submit to the President a proposal to—

''(A) call for a necessary countermeasure that is not available; and

''(B) commit to make a recommendation for procurement under subsection (e) of the first such specific countermeasure that meets the conditions for procurement under subsection (d).

''(2) COUNTERMEASURE SPECIFICATIONS.—The Secretary of Homeland Security and the Secretary shall, to the extent practicable, include in the recommendation under paragraph (1)—

''(A) estimated quantity of purchase (in the form of number of doses or number of effective courses of treatments regardless of dosage form);

''(B) necessary measures of minimum safety and effectiveness;

''(C) estimated price for each dose or effective course of treatment regardless of dosage form; and

''(D) other information that may be necessary to encourage and facilitate research, development, and manufacture of the countermeasure or to provide specifications for the countermeasure.

''(3) PRESIDENTIAL APPROVAL.—If the President has approved a request under paragraph (1), the Secretary of Homeland Security and the Secretary shall make known to persons who may respond to a call for the countermeasure—

''(A) the call for the countermeasure;

''(B) specifications for the countermeasure under paragraph (2); and

''(C) a commitment for a recommendation for procurement under subsection (e) of the first such specific countermeasure that meets the conditions for procurement under subsection (d) and the specifications under paragraph (2).

''(4) SUBSEQUENT SPECIFIC COUNTERMEASURES.—Procurement under subsection (f) of the first such specific countermeasure, or any other such countermeasure, that meets the conditions for procurement under subsection (d) and the specifications under paragraph (2) shall not preclude the additional procurement under subsection (f) of a subsequent such countermeasure that meets the conditions of procurement under subsection (d) if such a countermeasure provides improved safety or effectiveness or for other reasons enhances preparedness to respond to threats of use of a biological, chemical, radiological, or nuclear agent.

''(d) SECRETARY'S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR PROCUREMENT UNDER THIS SECTION.—

''(1) IN GENERAL.—The Secretary, in accordance with this section, shall identify specific countermeasures to threats identified under subsection (a) that the Secretary determines, in consultation with the Secretary of Homeland Security, to be appropriate for procurement with appropriations under this subsection for inclusion in the stockpile under section 121(a) of the Public Health and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 300hh-12(a)).

''(2) REQUIREMENTS.—In order for the Secretary to make the determination under paragraph (1) with respect to a countermeasure, the following requirements must be met:

''(A) DETERMINATION OF QUALIFIED COUNTERMEASURE.—The Secretary must determine that the product is a qualified countermeasure (as defined in subsection (h)).

''(B) DETERMINATION OF QUANTITIES NEEDED AND FEASIBILITY OF PRODUCTION AND DISTRIBUTION.—The Secretary must determine—

''(i) the quantities of the product that will be needed to meet the needs of the stockpile; and

''(ii) that production and delivery within 5 years of sufficient quantities of the product, as so determined, is reasonably expected to be feasible.

''(C) DETERMINATION OF NO SIGNIFICANT COMMERCIAL MARKET.—The Secretary shall—

''(i) determine that, at the time of the initial determination under this subsection, there is not a significant commercial market for the product other than as a biomedical countermeasure; and

''(ii) annually redetermine and report to the President, while a determination under paragraph (1) remains in effect with respect to the product, whether a significant commercial market exists for the product other than as a biomedical countermeasure.

''(e) RECOMMENDATION FOR PRESIDENT'S APPROVAL.—

''(1) RECOMMENDATION FOR PROCUREMENT.—In the case of a countermeasure that the Secretary of Homeland Security and the Secretary have determined is appropriate for procurement under this section for inclusion in the stockpile, in accordance with the preceding provisions of this section, the Secretary of Homeland Security and the Secretary shall jointly submit to the President, in coordination with the Director of the Office of Management and Budget, a recommendation for procurement under this section.

''(2) PRESIDENTIAL APPROVAL.—A countermeasure may be procured under this section only if the President has approved a recommendation under paragraph (1) with respect to such countermeasure.

''(3) NOTICE TO CONGRESS.—The Secretary of Homeland Security shall notify Congress of each decision of the President to approve a recommendation under paragraph (1).

''(f) PROCUREMENT.—The Secretary and the Secretary of Homeland Security shall be responsible for the following, for purposes of procurement of qualified countermeasures for the stockpile under section 121(a) of the Public Health and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 300hh-12(a)), as approved by the President under subsection (e):

''(1) IN GENERAL.—The Secretary shall be responsible for—

''(A) arranging for procurement of the countermeasure, including negotiating terms (including quantity, production schedule, and price) of, and entering into, contracts and cooperative agreements, and for carrying out such other activities as may reasonably be required, in accordance with the provisions of this paragraph; and

''(B) promulgating regulations to implement subparagraphs (E), (F), and (G), and any other provisions of this section.

''(2) CONTRACT TERMS.—A contract for procurement under this section shall (or, as otherwise specified in this paragraph, may) include the following terms:

''(A) PAYMENT CONDITIONED ON SUBSTANTIAL DELIVERY.—The contract shall provide that no payment may be made until delivery has been made of a substantial portion (as determined by the Secretary) of the total number of units contracted for.

''(B) DISCOUNTED PAYMENT FOR UNLICENSED PRODUCT.—The contract may provide for a discounted price per unit of a product that is not licensed or approved as described in subsection (h)(1) at the time of delivery, and may provide for payment of an additional amount per unit if the product becomes so licensed or approved before the expiration date of the contract (including an additional amount per unit of product delivered before the effective date of such licensing or approval).

''(C) STORAGE BY VENDOR.—The contract may provide that the vendor will provide storage for stocks of a product delivered to the ownership of the Government under the contract, for such period and under such terms and conditions as the Secretary may specify, and in such case amounts appropriated under subsection (i) shall be available for costs of shipping, handling, storage, and related costs for such product.

''(D) CONTRACT DURATION.—The contract shall be for a period not to exceed 5 years, renewable for additional periods none of which shall exceed 5 years.

''(E) TERMINATION FOR NONDELIVERY.—In addition to any other rights of the Secretary to terminate the contract, the contract may provide

that such Secretary may terminate the contract for failure to deliver a reasonable number (as determined by the Secretary) of units of the product by 3 years after the date the contract is entered into, and may further provide that in such case the vendor shall not be entitled to any payment under the contract.

''(F) PRODUCT APPROVAL.—The contract shall provide that the vendor seek approval, clearance, or licensing of the product from the Secretary for a timetable for the development of data and other information to support such approval, clearance, or licensing, and that the Secretary may waive part of all of this contract term on request of the vendor or on the initiative of the Secretary.

''(3) AVAILABILITY OF SIMPLIFIED ACQUISITION PROCEDURES.—The amount of any procurement under this section shall be deemed to be below the threshold amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), for purposes of application to such procurement, pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), of—

''(A) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

''(B) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

''(4) USE OF NONCOMPETITIVE PROCEDURES.—In addition to any other authority to use procedures other than competitive procedures, the Secretary may use such other procedures for a procurement under this section if the product is available from only one responsible source or only from a limited number of responsible sources, and no other type of product will satisfy such Secretary's needs.

''(5) PREMIUM PROVISION IN MULTIPLE AWARD CONTRACTS.—

''(A) IN GENERAL.—If, under this section, the Secretary enters into contracts with more than one person to procure a countermeasure, such Secretary may, notwithstanding any other provision of law, include in each of such contracts a provision that—

''(i) identifies an increment of the total quantity of countermeasure required, whether by percentage or by numbers of units; and

''(ii) promises to pay one or more specified premiums based on the priority of such persons' production and delivery of the increment identified under clause (i), in accordance with the terms and conditions of the contract.

''(B) DETERMINATION OF GOVERNMENT'S REQUIREMENT NOT REVIEWABLE.—If the Secretary includes in each of a set of contracts a provision as described in subparagraph (A), such Secretary's determination of the total quantity of countermeasure required, and any amendment of such determination, is committed to agency discretion.

''(6) EXTENSION OF CLOSING DATE FOR RECEIPT OF PROPOSALS NOT REVIEWABLE.—A decision by the Secretary to extend the closing date for receipt of proposals for a procurement under this subsection is committed to agency discretion.

''(7) LIMITING COMPETITION TO SOURCES RESPONDING TO REQUEST FOR INFORMATION.—In conducting a procurement under this section, the Secretary may exclude a source that has not responded to a request for information under section 303A(a)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(a)(1)(B)) if such request has given notice that such Secretary may so exclude such a source.

''(g) INTERAGENCY COOPERATION.—

''(1) IN GENERAL.—In carrying out activities under this section, the Secretary of Homeland Security and the Secretary are authorized, subject to paragraph (2), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

''(2) LIMITATION.—An agreement or undertaking under this subsection shall not authorize another agency to exercise the authorities provided by this section to the Secretary of Homeland Security or to the Secretary.

''(h) DEFINITIONS.—In this section:

''(1) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' means a biomedical countermeasure—

''(A) that is approved under section 505(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or licensed under section 351 of this Act (42 U.S.C. 262) or that is approved under section 515 or cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e and 360) for use as such a countermeasure to a chemical, biological, radiological, or nuclear agent identified as a material threat under subsection (a); or

''(B) for which the Secretary determines that sufficient and satisfactory clinical experience or research data (including data, if available, from preclinical and clinical trials) support a reasonable conclusion that the product will qualify for approval or licensing as such a countermeasure within 5 years after the date of a determination under subsection (d).

''(2) BIOMEDICAL COUNTERMEASURE.—The term 'biomedical countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))), or biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))) that is used—

''(A) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

''(B) to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug or biological product that is used as described in subparagraph (A).

''(i) APPROPRIATIONS.—

''(1) IN GENERAL.— There are appropriated, out of any moneys in the Treasury not otherwise appropriated, for fiscal year 2003 and for each fiscal year thereafter, such sums as may be necessary for the costs incurred by the Secretary in the procurement of countermeasures under this subsection as approved by the President under subsection (e) (other than costs specified in paragraph (2)).

''(2) RESTRICTIONS.—Amounts appropriated under this subsection shall not be available to pay—

''(A) costs for the purchase of vaccines under procurement contracts entered into before January 1, 2003;

''(B) costs under new contracts, or costs of new obligations under contracts previously entered into, for procurement of a countermeasure after the date of a determination under subsection (d)(2)(C) that there is a significant commercial market for the countermeasure other than as a biomedical countermeasure; or

''(C) administrative costs.''.

SEC. 4. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

(a) IN GENERAL.—Subchapter E of Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb, et seq.) is amended by adding at the end the following:

''SEC. 564. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

''(a) IN GENERAL.—Notwithstanding sections 505, 510(k), and 515 of this Act and section 351 of the Public Health Service Act, and subject to the provisions of this section, the Secretary may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, biological product, or device intended solely for use in an actual or potential emergency.

''(b) DECLARATION OF EMERGENCY.—

''(1) IN GENERAL.—The Secretary may declare an emergency justifying the authorization of a drug, biological product, or device under this subsection on the basis of a determination—

''(A) by the Secretary of Homeland Security, that there is a domestic emergency (or a significant potential of a domestic emergency) involving a heightened risk of attack with a specified biological, chemical, radiological, or nuclear agent;

''(B) by the Secretary of Defense, that there is a military emergency (or a significant potential of a military emergency) involving a heightened risk to United States military forces of attack with a biological, chemical, radiological, or nuclear agent; or

''(C) by the Secretary of a public health emergency under section 319 of the Public Health Service Act, affecting national security and involving a specified biological, chemical, radiological, or nuclear agent or a specified disease or condition that may be attributable to such agent.

''(2) TERMINATION OF DECLARATION.—

''(A) IN GENERAL.—A declaration under this subsection shall terminate upon the earlier of—

''(i) a determination by the Secretary, in consultation as appropriate with the Secretary of Homeland Security or the Secretary of Defense, that the circumstances described in paragraph (1) have ceased to exist; or

''(ii) the expiration of the 1-year period beginning on the date on which the declaration is made.

''(B) RENEWAL.—Notwithstanding subparagraph (A), the Secretary may renew a declaration under this subsection, and this paragraph shall apply to any such renewal.

''(3) NOTIFICATION.—The Secretary shall promptly publish in the Federal Register, and shall notify the appropriate committees of Congress concerning, each declaration, determination, and renewal under this subsection.

''(c) CRITERIA FOR ISSUANCE OF AUTHORIZATION.—The Secretary may issue an authorization under this section with respect to a product if the Secretary concludes—

''(1) that an agent specified in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

''(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

''(A) the product may be effective in detecting, diagnosing, treating, or preventing—

''(i) such disease or condition; or

''(ii) a serious or life-threatening disease or condition caused by a product authorized under this section or approved under this Act or the Public Health Service Act, for detecting, diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

''(B) the known and potential benefits of the product, when used to detect, diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product;

''(3) that there is no adequate, approved, and available alternative to the product for detecting, diagnosing, preventing, or treating such disease or condition; and

''(4) that such other criteria as the Secretary may by regulation prescribe are satisfied.

''(d) SCOPE OF AUTHORIZATION.—An authorization of a product under this section shall state—

''(1) each disease or condition and the intended use of the product within the scope of the authorization; and

''(2) the Secretary's conclusions, under subsection (c), concerning the safety and potential effectiveness of the product in detecting, diagnosing, preventing, or treating such diseases or conditions, including an assessment of the available scientific evidence.

''(e) CONDITIONS OF AUTHORIZATION.—The Secretary is authorized to impose such conditions on an authorization under this section as the Secretary determines are necessary or appropriate to protect the public health, including the following:

''(1) The Secretary shall impose requirements (including requirements concerning product labeling and the provision of information) designed to ensure that, to the maximum extent feasible given the circumstances of the emergency, health care professionals administering the product are informed—

''(A) that the Secretary has authorized the product solely for emergency use;

''(B) of the significant known and potential benefits and risks of use of the product, and of the extent to which such benefits and risks are unknown; and

''(C) of the alternatives to the product that are available, and of their benefits and risks.

''(2) The Secretary shall impose requirements (including requirements concerning product labeling and the provision of information) designed to ensure that, to the maximum extent feasible given the circumstances of the emergency, individuals to whom the product is administered are informed—

''(A) that the Secretary has authorized the product solely for emergency use;

''(B) of the significant known and potential benefits and risks of use of the product, and of the extent to which such benefits and risks are unknown; and

''(C) of any option to accept or refuse administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

''(3) The Secretary may impose limitations on which entities may distribute the product (including limitation to distribution by government entities), and on how distribution is to be performed.

''(4) The Secretary may impose limitations on who may administer the product, and on the categories of individuals to whom, and the circumstances under which, the product may be administered.

''(5) The Secretary may condition the authorization on the performance of studies, clinical trials, or other research needed to support marketing approval of the product.

''(6) The Secretary shall impose, to the extent feasible and appropriate given the circumstances of the emergency, requirements concerning recordkeeping and reporting, including records access by the Secretary and publication of data.

''(7) The Secretary may waive, to the extent appropriate given the circumstances of the emergency, requirements, with respect to the product, of current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act.

''(8) The Secretary shall, to the extent feasible and appropriate given the circumstances of the emergency, impose requirements for the monitoring and reporting of adverse events associated with use of the product.

''(f) DURATION OF AUTHORIZATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an authorization under this section shall be effective until the earlier of the termination of the declaration under subsection (b) or a revocation under subsection (g).

''(2) CONTINUED USE AFTER END OF EFFECTIVE PERIOD.—An authorization shall continue to be effective for continued use with respect to patients to whom it was administered during the period described by paragraph (1), to the extent found necessary by such patients' attending physicians.

''(g) REVOCATION OF AUTHORIZATION.—

''(1) REVIEW.—The Secretary shall periodically review the circumstances and the appropriateness of an authorization under this section.

''(2) REVOCATION.—The Secretary may revoke an authorization under this section if, in the Secretary's unreviewable discretion—

''(A) the conditions for such an authorization are no longer met; or

''(B) other circumstances make such revocation appropriate.

''(h) PUBLICATION.—The Secretary shall promptly publish in the Federal Register, and provide to the appropriate committees of Congress, a notice of each authorization, and each termination or revocation of an authorization, under this section.

''(i) RECORDKEEPING.—

''(1) IN GENERAL.—The Secretary may require persons, including a person who holds an authorization under this section, or who manufactures, distributes, prescribes, or administers a product that is the subject of such an authorization, to establish and maintain—

''(A) data that is obtained from such activity and that pertains to the effectiveness or safety of such product;

''(B) such records as are necessary to determine, or facilitate a determination, whether there may be any violation of this section or of a regulation promulgated under this section; and

''(C) such additional records as the Secretary may determine necessary.

''(2) ACCESS TO RECORDS BY SECRETARY.—

''(A) SAFETY AND EFFECTIVENESS INFORMATION.—The Secretary may require a person who holds an authorization under this section, or who manufactures, distributes, prescribes, or administers a product that is the subject of such an authorization to provide to the Secretary all data that is obtained from such activity and that pertains to the safety or effectiveness of such product.

''(B) OTHER INFORMATION.—Every person required under this section to establish or maintain records, and every person in charge or custody of such records, shall, upon request by the Secretary, permit the Secretary at all reasonable times to have access to, to copy, and to verify such records.

''(j) CIVIL MONETARY PENALTIES.—

''(1) IN GENERAL.—A person who violates a requirement of this section or of a regulation or order promulgated pursuant to this section shall be subject to a civil money penalty of not more than $100,000 in the case of an individual, and not more than $250,000 in the case of any other person, for each violation, not to exceed $1,000,000 for all such violations adjudicated in a single proceeding.

''(2) ASSESSMENT OF CIVIL PENALTIES.—Paragraphs (3), (4), and (5) of section 303(g) shall apply to a civil penalty under this subsection, and references in such paragraphs to 'paragraph (1) or (2)' shall, for purposes of this subsection, be deemed to refer to paragraph (1) of this subsection.

''(k) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions under the authority of this section by the Secretary, by the Secretary of Defense, or by the Secretary of Homeland Security are committed to agency discretion.

''(l) REGULATIONS.—The Secretary may promulgate regulations to implement this section.

''(m) CONSTRUCTION.—Nothing in this section shall be construed to impair or otherwise affect—

''(1) the authority of the President as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution; or

''(2) the authority of the Secretary of Defense with respect to the Department of Defense, including the armed forces, under other provisions of Federal law.

''(n) APPLICATION TO MEMBERS OF ARMED FORCES.—

''(1) WAIVER OF REQUIREMENT RELATING TO OPTION TO REFUSE.—In the case of the administration of a countermeasure to members of the armed forces, a requirement, under subsection (e)(2), designed to ensure that individuals are informed of an option to accept or refuse administration of a product, may be waived by the President if the President determines, in writing, that complying with such requirement is not feasible, is contrary to the best interests of the members affected, or is not in the interests of national security.

''(2) EFFECT ON STATUTE PERTAINING TO INVESTIGATIONAL NEW DRUGS.—In the case of an authorization based on a determination by the Secretary of Defense under subsection (b)(1)(B), section 1107 of title 10, United States Code, shall not apply to use of a product that is the subject of such authorization, within the scope of such authorization and while such authorization is effective.

''(o) RELATION TO OTHER PROVISIONS.—If a product is the subject of an authorization under this section, the use of such product within the scope of the authorization—

''(1) shall not be subject to any requirements pursuant to section 505(i) or 520(g); and

''(2) shall not be subject to any requirements otherwise applicable to clinical investigations pursuant to other provisions of this Act.''.

(b) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(1) in subsection (e)—

(A) by striking ''504, 703'' and inserting ''504, 564, 703''; and

(B) by striking ''or 519'' and inserting ''519, or 564''; and

(2) by adding at the end the following:

''(hh)(1) Promotion or use of a product that is the subject of an authorization under section 564 other than as stated in the authorization, or other than during the period described by section 564(g), unless such promotion or use is permitted under another provision of this Act.

''(2) Failure to comply with an information requirement under section 564(e).''.

SEC. 5. AMENDMENTS TO PROVISIONS OF THE HOMELAND SECURITY ACT.

(a) DECLARATION RECOMMENDING MAKING COUNTERMEASURE AVAILABLE TO INDIVIDUALS.—Section 224(p)(2)(A)(i) of the Public Health Service Act (42 U.S.C. 233(p)(2)(A)(i)) is amended—

(1) by striking ''advisable the administration'' and inserting the following: ''advisable—

''(I) the administration'';

(2) by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(II) making a covered countermeasure available to a category or categories of individuals who may wish to receive it.''.

(b) AMENDMENT TO ACCIDENTAL VACCINIA INOCULATION PROVISION.—Section 224(p)(2)(C)(ii)(II) of the Public Health Service Act (42 U.S.C. 233(p)(2)(C)(ii)(II)) is amended by striking ''resides or has resided with'' and inserting ''has resided with, or has had close contact with,''.

(c) DEEMING ACTS AND OMISSIONS TO BE WITHIN SCOPE OF EMPLOYMENT.—Section 224(p)(2) of the Public Health Service Act (42 U.S.C. 233(p)(2)) is amended by adding at the end the following:

''(D) ACTS AND OMISSIONS DEEMED TO BE WITHIN SCOPE OF EMPLOYMENT.—

''(i) IN GENERAL.—In the case of a claim arising out of alleged transmission of vaccinia from an individual described in clause (ii), acts or omissions by such individual shall be deemed to have been taken within the scope of such individual's office or employment for purposes of—

''(I) subsection (a); and

''(II) section 1346(b) and chapter 171 of title 28, United States Code.

''(ii) INDIVIDUALS TO WHOM DEEMING APPLIES.—An individual is described by this clause if—

''(I) vaccinia vaccine was administered to such individual as provided by paragraph (2)(B); and

''(II) such individual was within a category of individuals covered by a declaration under paragraph (2)(A)(i)(I).''.

(d) REQUIREMENT TO COOPERATE WITH UNITED STATES.—Section 224(p)(5) of the Public Health Service Act (42 U.S.C. 233(p)(5)) is amended in paragraph heading by striking ''DEFENDANT'' and inserting ''COVERED PERSON''.

(e) AMENDMENT TO DEFINITION OF COVERED COUNTERMEASURE.—Subclause (II) of section

224(p)(7)(A)(i) of the Public Health Service Act (42 U.S.C. 233(p)(7)(A)(i)(II)) is amended to read as follows:

''(II) used to control or treat the adverse effects of vaccinia inoculation or of administration of another covered countermeasure; and''.

(f) AMENDMENT TO DEFINITION OF COVERED PERSON.—Section 224(p)(7)(B) of the Public Health Service Act (42 U.S.C. 233(p)(7)(B)) is amended—

(1) in the matter preceding clause (i), by striking ''includes any person'' and inserting ''means a person'';

(2) in clause (ii)—

(A) by striking ''auspices such'' and inserting the following: ''auspices—

''(I) such''; and

(B) by adding at the end the following:

''(II) a determination was made as to whether, or under what circumstances, an individual should receive a covered countermeasure;

''(III) the immediate site of administration of a covered countermeasure was monitored, managed, or cared for; or

''(IV) an evaluation was made of whether the administration of a covered countermeasure was effective;'';

(3) in clause (iii) by striking ''or'';

(4) by striking clause (iv) and inserting the following:

''(iv) a State, a political subdivision of a State, or an agency or official of a State or of such a political subdivision, if such State, subdivision, agency, or official has established requirements, provided policy guidance, or supplied technical or scientific advice or assistance with respect to administration of such countermeasures;

''(v) in the case of a claim arising out of alleged transmission of vaccinia from an individual—

''(I) the individual who allegedly transmitted the vaccinia, if vaccinia vaccine was administered to such individual as provided by paragraph (2)(B) and such individual was within a category of individuals covered by a declaration under paragraph (2)(A)(i)(I); or

''(II) an entity that employs an individual described by clause (I) or where such individual has privileges to provide health care;

''(vi) an official, agent, or employee of a person described in clause (i), (ii), (iii), or (iv);

''(vii) a contractor of, or a volunteer working for, a person described in clause (i), (ii), or (iv), if the contractor or volunteer performs a function for which a person described in clause (i), (ii), or (iv) is a covered person; or

''(viii) an individual who has privileges to provide health care under the auspices of an entity described in clause (ii) or (v)(II).''.

(g) AMENDMENT TO DEFINITION OF QUALIFIED PERSON.—Section 224(p)(7)(C) of the Public Health Service Act (42 U.S.C. 233(p)(7)(C)) is amended—

(1) by striking ''who is authorized to'' and inserting the following: ''who—

''(i) is authorized to'';

(2) by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(ii) is otherwise authorized by the Secretary to administer such countermeasure.''.

(h) DEFINITION OF ''ARISING OUT OF ADMINISTRATION OF A COVERED COUNTERMEASURE''.—Section 224(p)(7) of the Public Health Service Act (42 U.S.C. 233(p)(7)) is amended by adding at the end the following:

''(D) ARISING OUT OF ADMINISTRATION OF A COVERED COUNTERMEASURE.—

''(i) IN GENERAL.—The term 'arising out of administration of a covered countermeasure', when used with respect to a claim or liability, includes, except as provided in clause (ii), a claim or liability arising out of—

''(I) determining whether, or under what conditions, an individual should receive a covered countermeasure;

''(II) obtaining informed consent of an individual to the administration of a covered countermeasure;

''(III) monitoring, management, or care of an immediate site of administration of a covered countermeasure, or evaluation of whether the administration of the countermeasure has been effective; or

''(IV) transmission of vaccinia virus by an individual to whom vaccinia vaccine was administered as provided by paragraph (2)(B).

''(ii) EXCEPTION.—Such term shall not include a claim or liability arising out of care for or treatment of complications arising out of the administration of the countermeasure.''.

(i) TECHNICAL CORRECTION.—Section 224(p)(2)(A)(ii) of the Public Health Service Act (42 U.S.C. 233(p)(2)(A)(ii)) is amended by striking ''paragraph (8)(A)'' and inserting ''paragraph (7)(A)''.

(j) EFFECTIVE DATE.—This amendments made by this section shall take effect as if enacted on November 25, 2002.

SEC. 6. GAO REPORT.

Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that—

(1) describes the activities conducted under the authorities provided for in section 409J(b)(1) of the Public Health Service Act (as added by section 2) and section 319A-1(f)(3) and (4) of such Act (as added by section 3);

(2) identifies any procurements that would have been prohibited except for the authorities provided in the sections described in paragraph (1); and

(3) assesses the adequacy of the internal controls established by the Secretary of Health and Human Services regarding procurements made under the authorities provided for in the sections described in paragraph (1).

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate equally divided on the measure.

The majority leader.

Mr. FRIST. Mr. President, agents of bioterror are potentially the most powerful and devastating weapons of mass destruction that are known to man. Bioterror agents are more powerful than traditional weapons of mass destruction, are more powerful than chemical weapons, are more powerful than nuclear weapons.

When I say that, people oftentimes say: How can you say that? And it really comes down to one simple concern: that many of the bioterror agents are and can be infectious. They are agents of virus, of bacteria, of another living organism that cannot be seen, that cannot be touched, that cannot be smelled or heard. Yet they are deadly. They know no borders. There are no geographic borders. They attack indiscriminately, and they can travel through a school, they can travel through a community, they can travel through a State, they can travel through a country, and they can travel, indeed, through a continent. They are powerful, powerful agents.

The United States is less than adequately prepared today in terms of defense against these agents of bioterror. Over the next 2 hours, we will be talking about a bill—and ultimately will pass a bill—that is long overdue, legislation that bolsters, that strengthens our Nation's defenses against threats from bioterrorism.

I applaud the leadership of Senator JUDD GREGG, the distinguished chairman of the Health, Education, Labor, and Pensions Committee. He has done a tremendous service to this Nation by bringing this legislation through his committee and to the floor of the Senate today for passage.

We absolutely must—we absolutely must—strengthen our defenses against the threats of biological weapons which I just referred to. But also covered in this bill are other weapons of mass destruction, including nuclear, including chemical, and including radiological weapons.

I also commend the distinguished Senator from Massachusetts, Mr. KENNEDY, for his efforts to achieve a bipartisan consensus on the bioshield legislation we are now considering on the Senate floor.

This legislation has been a priority for President Bush. I congratulate him. He first outlined his bold initiative in his State of the Union Address in January 2003. Since then, we have worked closely with the administration and with our colleagues here in Congress to pass this critical legislation.

What the legislation allows us to do is be proactive in developing a broad range of countermeasures to combat biological, chemical, radiological, and nuclear threats.

It was just several months ago in my own office that there was a bioterror attack and ricin was sent. It is a deadly agent. It is an interesting agent to think about because it is deadly. It is ricin. It was here in our Nation's capital city, in an adjacent building. There is no antidote. We do not have a medicine that can counteract the effects of ricin today.

It is now 3, almost 4 years ago that anthrax hit this same capital. It was deadly. With ricin, thank goodness, nobody was hurt and injured. With the anthrax, 3 years ago, the reality was being demonstrated that bioterror is here, it is on our own soil. It hit this Nation. It hit this Capitol. It hit the entire east coast. Indeed, it was deadly, that little anthrax bacteria that you cannot see.

This legislation allows us to further our response to such agents, both here on our soil, which exist and are being used today, as well as internationally.

It was just 2 days ago that a canister of sarin gas—it shifted just a little bit, with a mixing of two other chemicals, to become sarin gas—began to leak through that canister, again reminding us of the impact that chemical weapons can have today.

So whether it is domestically or internationally, this piece of legislation will bolster and strengthen our defenses to fight, to use countermeasures that will prevent, hopefully, the use of and have an appropriate response to the use of these biological and chemical weapons.

The bioshield legislation really does do just that. It improves our ability to investigate, to develop, and to produce these new such countermeasures. For the first time, we have well defined

this new paradigm of a public and private partnership working together to develop these countermeasures in our Nation's interests.

While maintaining high standards of scientific excellence, the bill streamlines the ability of agencies and entities, such as the National Institutes of Health, to rapidly advance research into these much needed countermeasures, countermeasures to the realities of biological weapons today.

The bill provides the private sector with new incentives to invest in research and development of biomedical countermeasures that otherwise simply would not have the business potential. We need to give those appropriate incentives to the private sector, to use its ingenuity, to use its innovation, to use its capitalism, to use its knowledge to respond to the realities, these real threats that are out there today.

The legislation is critical to our efforts to protect our citizens. There is a whole series of biological threats that are categorized by categories 1, 2, and 3. For the category 1 list, we have vaccines for only two, one being anthrax and the other being smallpox. Both of those vaccines need continued research and refinement in order to minimize those side effects and to make sure we can improve the ease of delivery so that in the event we need to respond, we can respond quickly, efficiently, and safely, whether it be for our soldiers or for citizens throughout America.

This bill also is a major component of our overall much larger strategy to improve our overall biodefense.

There are other initiatives such as strengthening our public health system. Our public health system has been neglected over the last 25 or 30 years. That public health system, that public health infrastructure, is the frontline in response to these agents.

Another component I hope we will be able to address in the future, which is important as we develop this broad strategy against bioterrorism, is this whole element of vaccine liability. Clearly, our vaccine liability system needs reform.

We have the latest public health challenges, things such as SARS, sudden acute respiratory syndrome—a year and a half ago that virus came, and nobody knew what it was, and the terror it created—West Nile virus, and vancomycin-resistant staphylococcus aureus. All of those have taught us the danger of sitting back and being too complacent and not being proactive. In this bill we are being proactive.

I commend especially Chairman GREGG, the President of the United States for his bold leadership, Senator KENNEDY, and all of our colleagues who have worked to craft this legislation to see that we respond to a clearly identifiable need. Passage of this legislation, indeed, is a major step forward in strengthening our national security.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from New Hampshire.

Mr. GREGG. Madam President, I thank the majority leader for his kind statements. I certainly want to recognize the fact that without the majority leader's very strong and thoughtful leadership in this area, we would not have gotten this far. He is obviously an expert in the area of health care and especially sensitive to the need to do something in the area of fighting those agents which might be used against us as biological agents. His leadership and knowledge have made a significant difference in our ability to be successful with this bill. I thank him for that leadership.

I join him in thanking the President. Obviously, this is an initiative high on the President's agenda and the people at NIH, Dr. Zerhouni and Dr. Fauci, who understand the threat and understand the need to address the threat.

We have to put the threat in context, and, regrettably, the context is serious. Were this 1950, 1960, were this any time prior to the latter part of last century and the beginning of our century, and we had terrorists out there who wanted to do us harm, who were as fanatical as are the people who wish to do us harm, the Islamic fundamentalist movement, we would fight them and we would be concerned about them. But our concerns and our ability to handle their threat would be proportional. We would have been able to manage it at that time in an effective and rather contained way.

The problem today is that when you have a fanatical group, a group willing to not only pursue its purposes without limitation and as part of that to be willing to kill innocent individuals, and when you have a group such as that that is also able to get or potentially take possession of weapons of mass destruction, you have created a whole new issue, a whole new threat, a threat of massive proportions. Because if individuals are willing to use weapons of mass destruction—biological, chemical, or nuclear—and they have no compunction about killing innocents—and in fact the purpose of Islamic fundamentalism is specifically to kill Western individuals, people who subscribe to the American philosophy, to our Nation—and their purpose is to undermine our country, to destroy our culture because they deem Western culture to be a threat to them, when you have people like that and they have the ability to possess weapons of mass destruction and the delivery systems to get those weapons into places where they could do massive harm, then you have a problem of immense proportion. The Nation must protect itself from that type of threat. That is what this bioshield initiative is an attempt to do.

We recognize, as the majority leader stated, that probably the single most threatening weapon which these individuals can get their hands on easily and disperse easily—it is not the single most threatening weapon overall; I suspect a nuclear device, were they able to produce one, would be more threatening—the type of weaponry which they most likely can get their hands on which has the potential to do the most harm to the most innocent individuals is a biological weapon or potentially a chemical weapon, but more likely a biological weapon. Because if they were able, for example, as was seen in a small contained area in the Capitol, to spread anthrax or to spread smallpox or to spread botulism, Ebola, or any other agents which would be a disease which would be carried, as the majority leader mentioned, without sight, without sound, without smell, without noise, across a large dispersal area, they could literally harm tens of thousands, potentially even more, Americans.

There is no question but if these fundamentalist terrorists, Islamic fundamentalists, get their hands on that type of weapon, get their hands on a biological weapon, come into possession of an anthrax capability or a smallpox capability, they will use it. There is no question about that. They will use it in a place where people gather who are gathering simply to go through their daily lives, whether it is in a subway system as occurred in Japan, or whether it is in a building as occurred here in the Capitol, or whether it is in some other area where people congregate.

So we as a nation—and the President has made this very clear—have a responsibility to try to defend ourselves from that type of a threat. It is not an inexpensive responsibility. It is going to cost us a lot of money. Regrettably, it is a complex responsibility. There is no magic wand you can wave that will inoculate the American public against these threats. But we understand there is a procedure to go as far down the road as we can possibly go to accomplish that sort of an inoculation or have the capacity to defend our people from that type of a threat.

One of the great advantages we have in fighting Islamic fundamentalism is that we are a sophisticated society which has technical capabilities which we can bring to bear in this war—and it is a war—and bring it to bear in a manner which allows us to take the position that gives us self-defense and also the capacity to carry the battle to them rather than have them carry the battle to us.

This bioshield bill grew out of an initiative that the President suggested, which was that in the case of a series of agents which are biologically driven, which we know can do the most harm, the top seven or eight agents which we know can do the most harm—six or seven agents—we are going to initiate an effort to try to develop the science necessary to develop ways to interdict, to stop, to cure, to make the attacks that use those types of agents less harmful to our people. But in order to accomplish that, we had to recognize as a government—and the administration certainly did—that there is no commercial applicability for this type

of research. There is no commercial demand for this type of a commodity.

A vaccine for anthrax is not in great commercial demand. People are not just going to go out and buy it or take it for the purposes of going through their daily lives. It is not like some other cure to some other sickness, and, therefore, we had to set up a structure where we make it viable for our private sector pharmaceutical industry and biotechnology industry to invest the extraordinary amount of money it takes to invest in the production of this type of response capability. That is essentially what bioshield does. It puts in place a regime which accomplishes three things.

First, it creates a research and development initiative which is public and private, using the great strength of NIH, which is refocused under the leadership of Dr. Zerhouni and Dr. Fauci, which has refocused a large amount of their energy, time, and expertise on this issue. It combines that public effort, which is aggressive, with a private initiative.

In order to get the private initiative going, it sets up a funding stream which makes it clear to the private sector that should they pursue development of vaccines or other ways to treat these agents which we see as the most threatening, whether it be anthrax, plague, smallpox, viral hemorrhagic fevers such as Ebola, or botulism, when they set up processes to address those diseases, whether it is a vaccine or whether it is something else, they will know there are going to be dollars in the pipeline to support that research and, more importantly, to purchase their product once they have produced it. And it will be purchased by the Government, obviously, because there is no market in the private sector for that.

So along with the research component of having NIH focused on this and the private sector focused on this, this bill sets up a stockpiling and procurement procedure to make it clear that, first, once we develop these types of vaccines, we are going to have enough of them to be able to deal with a major attack. Second, the producers of these vaccines or other treatment processes developed—it might be a pharmaceutical—are going to be able to have adequate return on their investment so they can pay the cost of producing that and still make a reasonable return. Third, the bill sets up a process where, should the event occur, should we be attacked with some sort of an agent that we do not yet have the actual approved response to—don't have an approved vaccine—and it has not received all of the FDA clearing that vaccines must go through, which is a long, complicated process in order to approve a vaccine for human use, or approve a pharmaceutical, but should there be somewhere in the pipeline a vaccine which appears to have some success in remediating damage caused by one of these biological attacks, or a pharmaceutical which remediates that, and it is in the pipeline, we set up a procedure that allows, under certain very limited situations where there is a clear and obvious emergency, the administration to use that treatment that is in development for human consumption in order to confront an emergency situation where specifically we have been attacked.

So that is the basic theme of the way this bill works. It creates the research component, the stockpiling and purchasing component, and creates an emergency outlet valve, if you will, for addressing a situation where we are attacked and we don't have a finalized product to address it.

As the majority leader mentioned, of the six major areas of threat that we see in the biological area, today we only have vaccines to address two of them. One of the vaccine regimes is sort of difficult to deliver. That, of course, is in the anthrax area. We have, obviously, a very strong vaccine capability, and we are getting the production of new vaccines in the area of smallpox. Hopefully, people will get back to being vaccinated for smallpox because this is a legitimate threat. But in the area of plague, viral hemorrhagic fever, and botulism, there are no vaccines yet. That is why it is very important that we focus the resources, energy, and the genius of the American health community on making sure that we try to develop these types of responses.

We are, regrettably, living in a world that has people who would do harm, who would pursue a course of inflicting massive harm for the purpose of making their political and quasi-religious point. It is an unfortunate fact. We need look no further than 9/11 to recognize that the killing of innocent people by the thousands is something that fundamentalist Islamic people, who ascribe to that belief, who are terrorists, basically are willing to pursue. We know that, regrettably, these biologic agents exist. Anthrax can be produced probably fairly easily if they have a chemistry background. We know it can be delivered and, regrettably, it was in the Capitol Building.

We know that other types of agents can also be produced. Regrettably, there may even be a vial of smallpox somewhere out there that could be used. So it is critical, as the President has so appropriately stated, that we put into place the process for trying to, in this area, reduce the threat, and hopefully someday be able to totally mute the threat. Obviously, if we are capable as a culture of developing a vaccine or some other treatment that will neutralize the effect of these types of biological agents, then they will not be used against us because the harm they would cause would not be worth the risk of developing and spreading of the agent. So it is definitely in our interest to pursue this course.

It is regrettable that it has taken us this long to get to this point from a legislative standpoint. But I congratulate the administration because they have not waited on us, the Congress. They have gone down the road as far as they think they can go toward letting contracts and putting into place the processes necessary to begin the development of these various vaccines and regimes necessary to address these risks. They have sort of come to a dead end, where they need this authorization in order to take the next steps necessary in the process of developing and expediting the process of getting these cures in place and the regimes in place.

So this bill remains critical to our efforts in the fight on the war against terrorism. Therefore, it is good that we have finally been able to reach a consensus in the Senate, where we will be able to pass this bill later today. It is my understanding that the House of Representatives is likely to accept this bill as it passes the Senate. Hopefully, that will be the case, and we can move it down to the President, who I know has been waiting anxiously. He has talked to us many times about the need for this piece of legislation. This will be a good way, obviously, to complete this week.

AMENDMENT NO. 3178

Mr. GREGG. Madam President, I send to the desk a substitute amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. KENNEDY, proposes an amendment numbered 3178.

Mr. GREGG. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

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

Mr. GREGG. Madam President, I thank the staff of the HELP Committee, Vincent Ventimiglia and Sharon Soderstrom, Steve Irizarry, and the other members of the staff who have done a great job in pulling this legislation together and following it through the process.

It has been a complicated, tortured, difficult exercise. It would not have gotten to this point without strong and effective staff work. The country owes them a debt of gratitude.

In the end, this bill is going to be one of the major components of our ability to protect ourselves as we move through this world that has such fundamentally evil individuals in it who might actually use this type of weapon against us or anyone else.

There will also be some side benefits to this initiative. I honestly believe as we evolve various vaccines and initiate this research effort in trying to address issues such as anthrax and botulism and plague, we will actually have some spinoffs that will be positive in other health areas, and specifically in ways to deliver these types of vaccines in a

less intrusive way. For example, anthrax has already gone from a six-shot series down to a three-shot series. I understand there is significant progress being made toward having a single vaccination event, potentially, in the anthrax area. There is great progress being made that I think may pay dividends to the American people beyond just the fight on terrorism but in addressing other types of agents which need and require vaccines or pharmaceuticals.

So this is a bill that not only is going to be a plus from the standpoint of fighting the war on terrorism but will be a plus from the standpoint of improving the health care delivery system in the United States, and specifically giving Americans better and more effective pharmaceuticals and vaccines.

I reserve the remainder of our time.

Madam President, I ask unanimous consent that at the conclusion or yielding back of time on S. 15, the bill be temporarily set aside, and the Senate then vote on passage at 2 p.m. today.

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

Mr. GREGG. Madam President, I ask that if we proceed to a quorum call, the time be charged equally to both sides.

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

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BROWNBACK. Madam President, I ask unanimous consent to speak on the side of the proponent, Senator GREGG, for up to 7 minutes.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I am here to address the Bioshield Act and particularly section 3 of that bill that directs the Secretary of Homeland Security on an ongoing basis to assess threats of use of chemical, biological, radiological, and nuclear agents and determine which threats pose a material risk of use against the U.S. population.

I draw my colleagues' particular attention to what has recently been reported in the newspaper about one of the most recent uses of sarin gas that has occurred and its possibility of being used in the United States.

I commend my colleagues for bringing this bill to the Senate, for a chance to talk about it. It is a very important issue. I see in this particular section our need to assess this. The discovery and confirmation of sarin gas in artillery shells in Iraq highlights evidence that Saddam Hussein had a weapons of mass destruction program that was not only fully operational but ready for use against U.S. troops.

I raise this for two reasons. One, the argument that we have not been able to find WMD in Iraq is ongoing. I hope we will not dismiss the lack of any findings in the past and what we are finding now, the actual use of sarin gas against our troops. That should continue to be a focus that we hunt for, and we should be vigilant in looking for weapons of mass destruction, particularly chemicals such as sarin gas. But more importantly, Iraq had told the U.N. weapons inspection team they had produced tons of sarin gas and other chemical weapons. We should be concerned about where those are today and whether some of them may have found their way into Syria or other countries.

I ask unanimous consent to have printed in the RECORD a news story that appeared today from Fox News.

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

[From Fox News, May 19, 2004]

TESTS CONFIRM SARIN IN IRAQI ARTILLERY SHELL

(By Liza Porteus)

NEW YORK.—Tests on an artillery shell that blew up in Iraq on Saturday confirm that it did contain an estimated three or four liters of the deadly nerve agent sarin (search), Defense Department officials told Fox News Tuesday.

The artillery shell was being used as an improvised roadside bomb, the U.S. military said Monday. The 155-mm shell exploded before it could be rendered inoperable, and two U.S. soldiers were treated for minor exposure to the nerve agent.

Three liters is about three-quarters of a gallon; four liters is a little more than a gallon.

''A little drop on your skin will kill you'' in the binary form, said Ret. Air Force Col. Randall Larsen, founder of Homeland Security Associates. ''So for those in immediate proximity, three liters is a lot,'' but he added that from a military standpoint, a barrage of shells with that much sarin in them would more likely be used as a weapon than one single shell.

The soldiers displayed ''classic'' symptoms of sarin exposure, most notably dilated pupils and nausea, officials said. The symptoms ran their course fairly quickly, however, and as of Tuesday the two had returned to duty.

The munition found was a binary chemical shell, meaning it featured two chambers, each containing separate chemical compounds. Upon impact with the ground after the shell is fired, the barrier between the chambers is broken, the chemicals mix and sarin is created and dispersed.

Intelligence officials stressed that the compounds did not mix effectively on Saturday. Due to the detonation, burn-off and resulting spillage, it was not clear exactly how much harmful material was inside the shell.

A 155-mm shell can hold two to five liters of sarin; three to four liters is likely the right number, intelligence officials said.

Another shell filled with mustard gas (search), possibly also part of an improvised explosive device (IED) was discovered on May 2, Defense Dept. officials said.

The second shell was found by passing soldiers in a median on a thoroughfare west of Baghdad. It probably was simply left there by someone, officials said, and it was unclear whether it was meant to be used as a bomb.

Testing done by the Iraqi Survey Group (search)—a U.S.-organized group of weapons inspectors who have been searching for weapons of mass destruction (search) since the ouster of Saddam Hussein—concluded that the mustard gas was ''stored improperly'' and was thus ''ineffective.''

''It's not out of the ordinary or unusual that you would find something [like these weapons] in a haphazard fashion'' in Iraq, Edward Turzanski, a political and national security analyst, told Fox News on Tuesday.

But ''you have to be very careful not to be entirely dismissive of it,'' he added. ''It remains to be seen whether they have more shells like this.''

IRAQ: A ''BAZAAR OF WEAPONS''

New weapons caches are being found every day, experts said, including ''hundreds of thousands'' of rocket-propelled grenades and portable anti-aircraft weapons.

''Clearly, if we're gonna find one or two of these every so often—used as an IED or some other way—the threat is not all that high, but it does confirm suspicion that he [Saddam] did have this stuff,'' said Ret. U.S. Army Col. Robert Maginnis.

''It is a bazaar of weapons that are available on every marketplace throughout that country,'' Maginnis added. ''We're doing everything we can to aggressively disarm these people, but there were so many things that were stored away by Saddam Hussein in that country . . . it's a huge job that we're tackling.''

Some experts were concerned that enemy fighters with access to potential weapons of mass destruction in a country full of stockpiles could mean more risk to coalition forces and Iraqis.

''What we don't know is if there are other shells, which there certainly could be,'' said Dennis Ross, a former ambassador and special Middle East coordinator and a Fox News foreign affairs analyst. ''We also don't know whether or not these kind of shells could be used as explosives, which could have a more devastating effect on our troops.''

Other experts said the individual shells themselves don't pose a threat to the masses.

''I'm not as concerned they're going to use a lot of chemical munitions,'' Maginnis said. ''They're not gonna use these as improvised explosive devices because they don't have a big blast associated with them, but they do combine those two compounds into the noxious sarin gas. But they can't do it all that well with a small explosive charge.''

''The reality is, they'd have to have a whole bunch of these things,'' he added, ''have to find some way of blowing them with a large charge to even create a cloud.''

That doesn't mean insurgents couldn't find a better way to make the devices to create a more ''terrorist-type of attack'' against U.S. forces, Maginnis continued.

The task of military analysts in Baghdad will be determine how old the sarin shells is. A final determination will have a significant effect on how weapons researchers and inspectors proceed.

Some experts suggested that the two shells, which were unmarked, date back to the first Persian Gulf War. The mustard gas shell may have been one of 550 projectiles that Saddam failed to account for in his weapons declaration shortly before Operation Iraqi Freedom began. Iraq also failed to account for 450 aerial bombs containing mustard gas.

It's not clear if enemy fighters simply found an old stockpile of weapons, or if they even knew what was inside.

Defense Secretary Donald Rumsfeld reacted cautiously to the news of the discoveries.

''What we have to then do is to try to track down and figure out how it might be there, what caused that to be there in this improvised explosive device, and what might it mean in terms of the risks to our forces,'' Rumsfeld said Monday.

KURDS: WE HAVE EVIDENCE OF WMD

An Iraqi Kurdish official had no doubt similar substances will be found as the weapons hunt continues.

''We don't know where they are, but we suspect they are hidden in many locations in Iraq,'' Howar Ziad, the Kurdish representatives to the United Nations, told Fox News on Tuesday. ''It's quite possible that even the neighboring states who are against the reform of Iraq . . . are helping the Saddamites in hiding.''

''As we know, the Baathist regime had a track record of using'' these chemicals against people in Iraq, such as the Kurds, Ziad continued. ''He's [Saddam] never kept any commitment he's ever made to the international committee nor to the people'' to not use such deadly materials.

Saddam's regime used sarin in mass amounts during an air attack on the Kurdish town of Halabja (search) in 1988, toward the end of the Iran-Iraq War. More than 5,000 people are believed to have died in Halabja and surrounding villages, where more than 65,000 were injured.

Both Iraq and Iran used chemical weapons during the 1980–88 war.

Ziad said the United Nations, the World Health Organization and others had not ''bothered'' to travel to the Iraqi Kurdistan to see the firsthand effects sarin and other chemical weapons had on people and to get proof that Saddam did in fact possess such weapons.

''We have evidence—we have victims of the use of those agents, and we're still waiting for WHO and the U.N. to come investigate,'' Ziad said.

Mr. BROWNBACK. I will read portions of this news story, dated today, Fox News:

Tests on an artillery shell that blew up in Iraq on Saturday confirmed that it did contain an estimated three or four liters of the deadly nerve agent sarin.

This has been confirmed by Defense Department officials. This is obviously a danger to our troops. It is obviously of great concern to us if this were to find its way into the United States.

I will read from retired United States Army COL Robert Maginnis:

Clearly, if we're gonna find one or two of these every so often—used as an IED or some other way—the threat is not all that high, but it does confirm suspicion that he [Saddam] did have this stuff.

He goes on to say this:

It is a bazaar of weapons that are available on every market place through that country. We're doing everything we can to aggressively disarm these people but there are so many things that were stored away by Saddam Hussein in that country . . . it's a huge job that we're tackling.

This next quote is from Dennis Ross, the former Ambassador, special envoy to the Middle East, a well-known figure on Middle East peace negotiations that took place:

What we don't know is if there are other shells which there certainly could be.

He goes on to say:

We also don't know whether or not these kinds of shells could be used as explosives, which could have a more devastating effect on our troops.

A final quote for the RECORD from this story:

Saddam's regime used sarin gas in mass amounts during an air attack on the Kurdish town of Halabja in 1988, toward the end of the Iran-Iraq War. More than 5,000 people are believed to have died in Halabja and surrounding villages, with more than 65,000 injured.

This is deadly stuff. It exists. We are now finding it. We need to be aware of that as we move forward with this bioshield bill.

Earlier this week the Wall Street Journal reported that U.S. inspectors found within the last few months ''warehouses full of commercial and agricultural chemicals'' which, if mixed and packaged properly, ''could quickly become chemical weapons.'' U.S. forces in Karbala have uncovered 55-gallon drums loaded with chemicals that were said to be ''pesticides,'' some of which were stored in what military sources described as a camouflaged bunker complex. Why would anyone camouflage insecticide?

According to another article, the alleged agricultural site just happened to be located alongside a military ammunition dump. Why are we storing insecticide by a military ammunition dump?

According to the Journal, the Iraq Survey Group, headed by Charles Duelfer, recently told Congress that some of Saddam's WMD facilities were newly built and contained stockpiled raw materials that would have allowed them to ''produce such weapons on a moment's notice.''

If I recall, in early April, Jordanian authorities foiled an al-Qaida plot to kill 80,000 people in a chemical weapons attack in Amman.

According to one of the conspirators whose confession was broadcast on Jordanian TV, al-Qaida WMD specialist Abu Musab al-Zarqawi, who was last seen in that chilling video beheading Nick Berg, trained and outfitted the WMD attackers in prewar Iraq. Like notorious terrorists Abu Nidal and Abu Abi Abbas, Zarqawi enjoyed sanctuary in Baghdad, courtesy of Saddam Hussein. Jordanian coverage of the plot included footage of 100-gallon jugs containing chemical weapons that had been intercepted 75 miles from the Syrian border where much of Saddam Hussein's prewar WMD stockpiles are believed to be hidden.

The Zarqawi revelation comes on the heels of the April 26 explosion at a suspected chemical weapons factory in Baghdad just as a U.S. weapons team arrived to inspect its contents. This was disguised as ''a perfume factory,'' and the facility was boobytrapped to destroy evidence, investigators believe, of whatever was inside.

We should not be surprised if, within the coming weeks, more sarin-laden shells are uncovered in Iraq. In the meantime, we should focus on this and get coverage on what is taking place and what has been found of this deadly sarin gas.

I note that Secretary Ridge, Homeland Security Department, has been warning of an increased risk of attack in coming months. In light of what we found in Iraq, it would not be far-fetched to say if al-Qaida wants to strike on U.S. soil, it would likely be with a chemical or biological weapon, something other than a conventional explosive.

In a recent interview with the Associated Press, retired LTG Patrick Hughes said that America has gotten better at predicting and safeguarding itself against attacks since September 11, but still Lieutenant General Hughes indicated that significant threats remain, especially now as high ''background noise'' from terrorists and heightened sensitivity during the election year has officials on guard for a possible attack whose nature they cannot quite pin down.

Based on captured material, interviews, and other sources of information, Lieutenant General Hughes believes that al-Qaida will likely strike with something other than a conventional explosive device. He is particularly worried about chemical and biological attacks, including a dirty bomb, and particularly points to the possibility of another anthrax biological attack following the one that wreaked havoc on the postal system, closed a Senate office building for 3 months, and killed five people in 2001.

We first heard about sarin gas in an attack at a Japanese subway where twelve people died. It is a potent weapon in which a little drop on your skin will kill you. Sarin gas was confirmed in the 155-mm shell and contained an estimated 3 or 4 liters. Fortunately, the two soldiers who may have been exposed are now safe and are returned to duty. They did show signs of being hit by chemical weapons, but it was a mild case and they are back on duty. This could have ended in tragedy had our soldiers not been more vigilant.

I hope we will continue to be focused on finding these weapons of mass destruction, particularly before they find their way to our shores so we can make sure our troops are safe and that such weapons do not find their way here to the United States. I believe my colleagues' bill will go a long way toward securing that goal. I urge its immediate passage.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. Mr. President, I strongly support the Project Bioshield Act. It is an essential part of our Nation's ability to respond effectively to the threat of terrorist attacks that use biological or chemical weapons.

I commend Senators GREGG, FRIST, REED, and other members of our HELP Committee for their efficient and effective bipartisan work on this bill, and I thank Senator LEVIN for his expertise and thoughtful considerations.

I also commend our colleagues on the Appropriations Committee, and especially the chairman, Senator STEVENS, and the ranking member, Senator BYRD, for already providing the funding that Project Bioshield needs to be effective. Their leadership is essential in protecting the Nation.

We have worked closely, too, with Secretary Tommy Thompson and CMS Administrator Mark McClellan on this important legislation. They deserve great credit for their leadership as well.

The Project Bioshield Act is an important addition to the Public Health Security and Bioterrorism Preparedness and Response Act that we passed 2 years ago. Since that major legislation was enacted, we have seen new examples of the vicious impact of terrorism around the world. The brutal pictures from the appalling bomb attack in Madrid and the horrifying images of other terror attacks around the world are savage reminders that we must never let down our guard.

The will to protect the Nation from terrorism is not enough. We must also provide the resources and the means. Bioshield is a major step toward giving the Nation's health care professionals the support they need to respond to attacks of biological, chemical, and nuclear weapons.

A terrorist armed with a vial of a deadly pathogen could inflict pain and death on a vast scale. For too many of the weapons we face, our defenses are inadequate. The Nation needs better vaccines and drugs to fight ancient enemies such as smallpox or new plagues launched by genetically modified disease bacteria.

The members of our HELP Committee have worked together to help America's skilled physicians and scientists develop the vaccines, the diagnostic tests, and treatments needed to meet these disease challenges. Clearly, new legislation is needed to improve America's defensive arsenal against these threats.

The current bill will help guide the talents of America's medical researchers and biotechnology industry in building the stronger medical defenses we need to keep families safe from bioterrorism.

I am proud that Boston is, once again, leading the way in developing pioneering new biodefense countermeasures. We have taken steps to expedite the discovery of new vaccines and cures needed to protect the Nation.

This chart is a statement about this overall legislation:

> Bioshield will accelerate the development of new vaccines, treatments and diagnostics to keep America safe from biological, chemical and radiological weapons.

The fact remains that there is little commercial interest in the development of countermeasures, because they will only be used in the event of some kind of assault or attack on the United States. Nonetheless, we need to develop these vaccines and the various treatments for treating these kinds of dangers because we may very well face them. If we are going to be serious about dealing with biodefense and bioterrorism, this is a very important part of the whole process.

Harvard Medical School has worked with other academic centers to create a New England Regional Center for Excellence for Biodefense. The new center will be the incubator for innovative ideas for treatments of the future. The Boston University Medical Center is building a major new laboratory to enable these pioneering new treatments be tested in a safe and secure research facility.

At the new laboratory, researchers from across America will be able to help turn promising new ideas into treatments to help patients. NIH has recognized the excellence of the center and the laboratory by making substantial investments in their development. The Project Bioshield will help complete this pipeline of discovery by harnessing the creativity and the skill of the flourishing biotechnology industry.

The legislation will ensure companies know that investing in new responses for bioterrorist attacks is a risk worth taking. The bill before the Senate guarantees that any company which develops a successful new product for these threats will find a willing buyer in the Federal Government. With that guarantee, companies will make the investments needed to prepare for any attack. Without that guarantee, they will not. It is as simple as that.

The act will accomplish several other important goals. It will streamline and accelerate the research at NIH on bioterrorism and other weapons of mass destruction. The most effective weapons in the war against biological and chemical attacks are often the skills of our health professionals and the ingenuity of our scientists. The new flexibility for NIH under this legislation will help use these extraordinary talents in the search for new responses.

The act will also encourage the biotechnology, pharmaceutical, and medical device industries to use their creativity to develop countermeasures against the dangerous pathogens and chemical or radioactive agents. In addition, it authorizes the Food and Drug Administration to allow the emergency use of unapproved medicines when needed to deal with such attacks.

The authorization for the emergency use of unapproved products also includes strong provisions on informed consent for patients and limits the scope of products that can qualify for emergency authorization. The FDA must carefully monitor adverse reactions to unapproved products and must require the recordkeeping and studies necessary to assure the safest possible use of these products.

The enactment of the Project BioShield Act is a significant accomplishment, but there is much more work to be done.

This is a brief outline of what this legislation is all about. It establishes the $5.6 billion fund as a guaranteed market for the new biodefense products, and it ensures that the Departments of Homeland Security and HHS set priorities in developing medicines for the threats that America faces. So you combine intelligence about the nature of the threat with expertise from HHS to set the priorities in developing medicines.

It gives NIH, the gold standard in terms of research throughout the world, much needed flexibility to ensure promising research areas can advance quickly. Finally, it allows the FDA to authorize the emergency use of medicines under the tightly controlled conditions outlined in this legislation.

The most sophisticated disease monitoring system will be of little use if public health agencies are so starved of funds that they cannot keep our communities safe.

I want to take a few moments of the Senate's time to look at the progress for bioterror preparedness.

This is taken from a GAO study from February 10 of this year. It says:

> No State reported meeting what they call the third benchmark, a plan for the hospitals in the State to respond to an epidemic involving at least 500 patients.

This is extraordinary. On the one hand, dealing with bioterrorism we have to be able to detect and contain it, and then we have to be able to treat people. That is where BioShield can be enormously effective. But if we are going to be able to contain and treat a bioterror attack, we must be able to deal with it in our medical centers. What we are finding out now, as we review our preparedness, is that we are not making the progress that is absolutely essential to protect communities.

Report after report shows that we are falling short in preparing our defenses against the threat of bioterrorism. The GAO conducted a detailed analysis of the readiness of hospitals for such attacks. How many communities do you think have plans—just plans to be able to treat a surge of 500 additional patients in a terrorism emergency? Would you say 75 percent? 50 percent? Only 25 percent? No, you would be wrong. The correct answer is none. Zero! Not a single community in the GAO survey had a plan to treat an additional 500 patients. That is basic—and none of the communities in the GAO survey could do it. That is a situation that has to be remedied.

An expert panel assembled by the Trust for America's Health conducted an analysis of the readiness for bioterrorism of public health agencies in all 50 States. They examined 10 key indicators of readiness, such as adequate laboratory capacity to respond to bioterrorism emergencies. How many

States do you think were fully prepared? The answer, again, shockingly, is none.

This chart shows the different grades of States in bioterror preparedness. The highest we find is 7 out of 10. That would be the green. That includes California, Florida, Tennessee, and Maryland. But if you look at most of this chart you will see it is red or pink, which means they have only 2 or 3 of the 10 required actions necessary to be successful in dealing with bioterrorism. You need to have laboratories, hospital capacity and, as mentioned before in Bioshield, the basic medicines to treat the victims.

The Institute of Medicine in 2003 found that America's health agencies have ''vulnerable and outdated health information systems and technologies, an insufficient and inadequately trained public health workforce, antiquated laboratory capacity, a lack of realtime surveillance in epidemiological systems, an ineffective and fragmented communications network, incomplete domestic preparedness and emergency response capabilities, and communities without access to essential public health services.''

That is really the challenge. If we talk about homeland security, this is a key aspect in ensuring homeland security. It is a challenge we have to address. That puts the Project BioShield Act in an ominous perspective. It is a large step in the right direction, but without a commitment to adequately fund our hospitals and our health agencies, genuine preparedness and effective homeland security will still be far from what is needed.

I urge my colleagues in approving this important bipartisan legislation to also do what it takes to see that our hospitals and health agencies have the resources they need to use the new tools that BioShield gives them. We don't know how much time we have, but we do know we have to get the job done and do it as quickly as we can.

Mr. President, I want to take a moment to thank a number of our colleagues' staffs who have worked tirelessly in this endeavor over the period of these last 2 years. This has been an enormous effort on the part of many of them. They have done an extraordinary job working this through.

The passage of the BioShield legislation owes much to the hard work and skill of dedicated staff members on both sides of the aisle in the Senate and the House of Representatives, and in the administration too.

I would like to take a moment to thank the effective and skillful work of Senator GREGG's staff, particularly Vince Ventimiglia and Steve Irizarry. Their expertise was helpful in so many ways. I also want to thank Craig Burton of Senator FRIST's staff for his effective work on the legislation.

Our Republican colleagues on the House Commerce and Homeland Security committees were ably assisted by Tom DiLenge and Nandan Kenkeremath. John Ford worked tirelessly on behalf of the many Democratic Members with an interest in this legislation.

I also commend many senior staff in the Department of Health and Human Services for their work in seeing this important legislation enacted. We owe particular thanks to Stewart Simonsen, the Assistant Secretary for Public Health Preparedness, as well as Raissa Downs, Ken Bernard and Scott Whitaker from the Office of the Secretary, and Amit Sachdev of the FDA.

Staff members from many Democratic Senators made numerous helpful contributions to the success of this legislation. I would like to thank Peter Levine and Gary Leeling from Senator LEVIN's staff, as well as Lisa German from Senator REED's staff. I would also like to thank my health staff, particularly David Nexon, David Bowen, David Dorsey and Paul Kim for their excellent work on this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GREGG. Mr. President, I ask that my substitute amendment be accepted.

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

The amendment (No. 3178) was agreed to.

The PRESIDING OFFICER. Under the previous order, the committee substitute amendment, as amended, is agreed to.

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

BIOSHIELD FUNDING

Mr. GREGG. Mr. President, I appreciate the hard work and cooperation of many of my colleagues to build a program to protect Americans from bioterrorism. I am grateful to Senator COCHRAN for his work last year to ensure that adequate funds were provided in advance to incentivize the immediate development of countermeasures. I also commend Senator NICKLES for his efforts to safeguard these funds and ensure that they remain available solely for the intended purpose of protecting our citizens from biological attack.

Mr. COCHRAN. I was pleased to work with the administration and my colleagues on the Appropriations Committee to secure funding for the program. It is my intention that any unobligated balances of funds appropriated for project BioShield remain available until expended, as the law requires, to ensure that the program has adequate resources in fiscal year 2005 to continue developing necessary countermeasures.

Mr. NICKLES. I appreciate the leadership of my colleague from Mississippi in this effort, and agree that the funds should remain dedicated to the rapid development of effective countermeasures against emerging threats.

Mr. BYRD. Mr. President, I commend Senators GREGG and KENNEDY for their hard work in bringing this important legislation to the floor. I share in their commitment to protect Americans from bio-terrorism. Last year, I worked with Senator COCHRAN, the chairman of the Homeland Security Subcommittee of the Senate Appropriations Committee, to develop an extraordinary funding mechanism for the funding of Project Bioshield. The Congress approved $5.6 billion of advanced appropriations to create incentives for the development of vaccines, pharmaceuticals and other countermeasures for responding to a potential terrorist attack. This funding demonstrated a strong commitment to implementing this important program.

During debate on the budget resolution, the Senate approved an amendment offered by Senator COCHRAN and myself that struck from the resolution a provision that would have established different rules in the House and Senate for the treatment of Project Bioshield funding. I believe such a provision would have created confusion and potentially undermined future funding for homeland security programs.

Is it the understanding of the Senator from New Hampshire that no such provision will be included in the final version of this legislation that will be presented to the President?

Mr. GREGG. I thank the Senator from West Virginia for his cooperation and appreciate his efforts to help secure funding for this important program. While I am unable to guarantee an outcome in conference, I have no intention of including this provision and I will work to ensure that no such provision will be included in the bill presented to the President.

Mr. BYRD. Is it also his understanding that no such provision, which is in neither the House nor Senate-passed budget resolutions, will be included in a conference report on the budget resolution?

Mr. GREGG. I have discussed this with the chairman of the Budget Committee and the Senator's understanding is correct that no such provision will be included.

Mr. BYRD. I thank the chairman for his assurances and cooperation in this matter and I commend both he and Senator KENNEDY for their cooperation in bringing to the Senate this important legislation.

PURCHASE OF VACCINES

Mr. LEVIN. Mr. President, I would like to clarify the understanding of the managers of this bill with regard to the restriction in section 319F–2(c)(9), as amended by the Gregg-Kennedy amendment, on the use of Bioshield funds from paying the costs for purchase of vaccines under procurement contracts

entered into before the date of enactment. Is it the understanding of the bill's managers that this restriction would not apply to the purchase of additional doses of vaccines otherwise qualifying as security countermeasures if they are acquired under either new contracts or modifications to existing contracts to increase the numbers of doses to be procured for the Strategic National Stockpile?

Mr. GREGG. I thank the Senator for his question. That is my understanding.

Mr. KENNEDY. I agree with the Senator from Michigan and the Senator from New Hampshire that that is my understanding of the provision. However, it is also my understanding that the primary intent of the Bioshield program is to accelerate the development of new products rather than providing an additional funding source to pay for products developed prior to the enactment of the legislation.

SPECIAL RESERVE FUND

Mr. KENNEDY. Mr. President, I commend the leadership of our distinguished chairman in bringing the Bioshield legislation to the Senate floor. I am optimistic that our colleagues will approve this urgently needed legislation. I would like to clarify with the chairman the intent behind one of the key provisions in the legislation.

Would the chairman agree that as we have considered this legislation during our bipartisan and bicameral negotiations, it has been clear that the congressional intent is for the Bioshield special reserve fund to be one option for the Secretary with respect to procuring countermeasures against chemical, biological, radiological, or nuclear agents. A second option is ordinary appropriations for the stockpile outside of the special reserve fund. It is clear though that we expect that the Secretary will endeavor not to use the Bioshield special reserve fund as a substitute for the commercial market in procuring such countermeasures.

Mr. GREGG. I thank my colleague from Massachusetts for his comments. I agree that his statements reflect the intent of Congress regarding the use of the Bioshield special reserve fund.

Mr. LEVIN. Mr. President, I come to the floor today to express my support for the Project Bioshield legislation. This bill will make an important contribution to our Nation's preparedness by authorizing the expenditure of $5.6 billion from fiscal year 2004 to fiscal year 2013 for the procurement of biomedical countermeasures for inclusion in a Strategic National Stockpile. Project Bioshield will bolster the Nation's ability to provide protections and countermeasures against biological, chemical, radiological, and nuclear agents that may be used in a terrorist attack. It includes provisions to facilitate research and development of biomedical countermeasures by the National Institutes of Health; to provide for procurement of needed countermeasures through a special reserve fund and to authorize, under limited circumstances, the emergency use of medical products that have not been approved by the Food and Drug Administration.

I am pleased that the final version of the bill requires that any bioshield contract be awarded pursuant to full and open competition unless the Secretary determines that the mission of the bioshield program would be seriously impaired by this requirement. This provision ensures that the bioshield program, like other Federal programs, will be subject to government-wide competition requirements.

I am also pleased that the final version of the bill will not make it more likely that military personnel will be required to take unapproved products without their consent. This subject has been addressed in an appropriate manner in the National Defense Authorization Act for Fiscal Year 2005, which is being debated on the Senate floor right now.

This legislation will help to better prepare our Nation and bolster our critical infrastructure to help us deal effectively with terrorist attacks. The mailing of anthrax and ricin tainted letters to Capitol Hill and other locations in 2001 and 2004, respectively, have highlighted our Nation's weaknesses in this area of biodefense. Now Project Bioshield will help give us the tools we need to develop appropriate countermeasures and combat bioterrorism more effectively.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—99

Akaka	Byrd	Daschle
Alexander	Campbell	Dayton
Allard	Cantwell	DeWine
Allen	Carper	Dodd
Baucus	Chafee	Dole
Bayh	Chambliss	Domenici
Bennett	Clinton	Dorgan
Biden	Cochran	Durbin
Bingaman	Coleman	Edwards
Bond	Collins	Ensign
Boxer	Conrad	Enzi
Breaux	Cornyn	Feingold
Brownback	Corzine	Feinstein
Bunning	Craig	Fitzgerald
Burns	Crapo	Frist
Graham (FL)	Leahy	Roberts
Graham (SC)	Levin	Rockefeller
Grassley	Lieberman	Santorum
Gregg	Lincoln	Sarbanes
Hagel	Lott	Schumer
Harkin	Lugar	Sessions
Hatch	McCain	Shelby
Hollings	McConnell	Smith
Hutchison	Mikulski	Snowe
Inhofe	Miller	Specter
Inouye	Murkowski	Stabenow
Jeffords	Murray	Stevens
Johnson	Nelson (FL)	Sununu
Kennedy	Nelson (NE)	Talent
Kohl	Nickles	Thomas
Kyl	Pryor	Voinovich
Landrieu	Reed	Warner
Lautenberg	Reid	Wyden

NOT VOTING—1

Kerry

The bill (S. 15), as amended, was passed.

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

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The amendment (No. 3180) was agreed to, as follows:

AMENDMENT NO. 3180

(Purpose: To amend the title of the bill)

Amend the title so as to read: To amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.''.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER. The Senate will resume consideration of S. 2400, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

Pending:

Lautenberg amendment No. 3151, to clarify the application of Presidential action under the International Emergency Economic Powers Act.

Mr. WARNER. Mr. President, my understanding is that the pending business is the Lautenberg amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. At this time, Mr. President, my colleague from Arizona is seeking recognition.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3191 TO AMENDMENT NO. 3151

Mr. KYL. Mr. President, I call up amendment No. 3191, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. Kyl], for himself and Mr. CORNYN, proposes an amendment numbered 3191 to amendment numbered 3151.

Mr. KYL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

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

Mr. KYL. Mr. President, I pose an inquiry. I am prepared to discuss this amendment and move forward with it. I was advised that possibly the Senator from West Virginia wishes to use this time to make some remarks. I say to the Senator, if he wishes to do that, I would be happy to defer.

Mr. WARNER. Mr. President, that is correct. I thank the Senator from Arizona. It is my understanding that our distinguished Senator from West Virginia desires to address the Senate, in which case the pending business is the amendment in the second degree, and we will return to that.

Mr. REID. Mr. President, may I direct a question through the Chair to the chairman of the committee. Senator LAUTENBERG wishes to modify his amendment, which doesn't take unanimous consent. Can we get that out of the way?

Mr. WARNER. Absolutely.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 3151, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I send a modification to my original amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 184, between lines 16 and 17, insert the following:

Subtitle F—Provisions Relating To Certain Sanctions

SEC. 856. CLARIFICATION OF CERTAIN SANCTIONS.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term ''controlled in fact'' means—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches) or any person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. 857 NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

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

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

Mr. KYL. Mr. President, I ask unanimous consent that at the conclusion of Senator BYRD's remarks, I be recognized to get back on my amendment. Also, I inquire of the Senator approximately how long he wishes to take.

Mr. BYRD. Mr. President, in response to the distinguished Senator from Arizona, I expect to take 15 to 18 minutes.

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

The Senator from West Virginia is recognized.

COMMENDING THE ARMED SERVICES COMMITTEE

Mr. BYRD. Mr. President, I thank all Senators for their courtesies. I especially want to take this moment to thank the chairman of the Senate Armed Services Committee and the ranking member for the splendid hearings they have been conducting.

I have never sat on a committee through such a series of hearings that have been so well ordered and so well chaired by both Members, the distinguished Senator from Virginia and the distinguished Senator from Michigan, as I have experienced in these few days as this committee has been conducting its hearings into the serious matters that have confronted us in the Middle East. I just want to take this occasion to say I could never ask for a chairman to be more fair, more just, more reasonable than the Senator from Virginia.

I marvel at his equanimity, at his good nature. He is always, always a man of good will. I count it a great privilege to serve on his committee.

Mr. WARNER. Mr. President, I thank our distinguished colleague. Senator LEVIN and I have had 26 years on that committee, and we work side by side for the highest degree of bipartisanship achievable.

I want to say to all members of the committee—and the distinguished Senator from West Virginia knows this—this is the third hearing, and it has been 100-percent attendance, except for one individual who is out of town, in each of the hearings, showing the intensity of the subject, the solemnity of the proceeding. I believe all members of our committee, both sides, comported themselves in the finest traditions of the Senate, given the seriousness of this problem. I thank the Senator.

Mr. LEVIN. If the Senator will yield for a thank-you from me for his nice comments.

Mr. BYRD. Yes.

Mr. LEVIN. As always, the Senator from Virginia shares the kudos which properly belong to him. I am grateful to the Senator from West Virginia for bringing to the attention of this body the extraordinary chairman we have on the Armed Services Committee.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I have said along this line that it was a great pleasure serving on this committee with Senator Sam Nunn of Georgia. I thought he was a great chairman. He was. When he left the committee, I felt it would certainly be a long time before his shoes and his chair would be as well filled as one could hope.

I find that the distinguished Senator from Michigan has done a splendid job. He handles himself preeminently well on television, and he approaches each problem on the committee in a very studious fashion. When he reads a bill, one can say that bill has been read. When he writes a bill, one can say it has been written well—every period, comma, semicolon, colon, en dash, em dash, whatever it is. He would have gone over it thoroughly. I thank him. He has certainly stepped into the shoes of Sam Nunn very ably. I have every confidence in him.

Mr. WARNER. Mr. President, we wish to restore the time the Senator asked for, but I want to say I share that about Senator LEVIN. Senator LEVIN and I and Senator Nunn were taught by some of the greatest teachers in the Senate, foremost the Senator from West Virginia, Mr. BYRD, John Stennis, John Tower, Barry Goldwater, and Scoop Jackson.

As I look back on my quarter of a century in the Senate, those were the teachers who set the course and speed of that committee, and the Senator from Michigan and I do our best to do that with the help of the Senator from West Virginia. We thank the Senator from West Virginia.

Mr. BYRD. I thank the Senator. Among those giants who walked these halls, may I add one name: the name of the illustrious Richard Brevard Russell of Winder, GA, who was chairman of that committee when I first came to the Senate.

SECURING OUR ENERGY FUTURE: A NEW STRATEGY

Mr. BYRD. Mr. President, on another matter, a perfect storm has been brewing. Americans have already felt the leading edge of the approaching squalls. Today, we are more dependent upon imported oil than ever before. More than 54 percent of the oil that Americans consume comes from foreign countries, especially OPEC-producing nations. Instead of striving to disentangle ourselves from this foreign oil dependency, the Bush administration seems intent on sinking our military and energy fortunes deeper and deeper into the sands of the Middle East.

Last week, gas prices in many regions of West Virginia were above $2 per gallon. Within days, these prices could easily exceed the $2 per gallon average nationwide. The price of natural gas is at a historic high, and consumers and manufacturers in West Virginia and across the country are struggling to pay their bills. Though some advocate reducing this pressure by importing liquified natural gas in the future, we must also recognize that this will create a new and growing resource dependency. It is hard to believe that the energy and foreign policy decisions made in places elsewhere in the world are having such a dramatic impact on the lives and pocketbooks of our citizens, but that is today's reality.

Another aspect of that gathering storm is the poor state of our electricity grid, the lifeline of our economy. However, decade-long efforts to deregulate electricity markets have, in some cases, led to market manipulation and fracturing rather than producing a more integrated, reliable system. Given the blackout last summer, few observers would doubt that our electric transmission system needs to be made more robust. Furthermore, economic and environmental regulations governing energy production and use are often in conflict with our disjointed energy policies. Continued uncertainties make investment decisions difficult and clearly demonstrate that these ongoing debates must be resolved. Due to the lack of political will, special interest entrenchment, and other constraints, policymakers have been unable to untangle this Gordian knot.

These concerns are central to the long-term interests of our Nation, and they represent very ominous clouds on the horizon. Sadly, our energy problems are being addressed with Band-Aid solutions. In recent years, we have witnessed attempts to put a moratorium on Federal gas taxes, to tap the Strategic Petroleum Reserve, and to make secretive deals with Saudi Arabia to produce more oil. We have unnecessarily endeavored to treat the symptoms and not the core problem for far too long. Instead, our Nation needs to begin defining alternative pathways and new approaches that go beyond the extremist debates and simplistic solutions that define our very demanding energy and environmental challenges.

Three years ago this week, the Bush administration released the National Energy Policy report. Unfortunately, Americans have yet to receive the benefits that this energy plan promised to provide. Given the plan's 3 year anniversary, I am announcing that I, along with other Senators, have asked the General Accounting Office to undertake a broad and comprehensive review of the Federal Government's energy funding, policies, and overall goals to determine whether the U.S. does, in fact, have strategic plan in place.

The U.S. is without a serious energy policy, and no energy bill currently before this Congress can adequately rectify that problem. The U.S. faces the simultaneous challenges of an expanding energy appetite, a need to reduce its dependence on imported resources, and a decreasing tolerance for environmental impacts. Sadly, policymakers have time and time again failed to craft a comprehensive approach—a failure which continues to jeopardize our Nation's security, economic health, and environment. Too much is at stake to continue to ignore these looming problems.

America's energy policies have been driven primarily by a reaction to supply shortages and crises. The energy policy approaches of numerous administrations are littered with false starts and abrupt shifts—lurching first in one direction then in another. When it comes to securing America's energy future, the Bush White House is stuck in short-sighted, high-risk initiatives which seem largely guided by big dollar campaign contributors. Despite its rhetoric, this White House's lipservice and corporate coddling have been the sum total of its energy policy. It began with the Vice President's national energy policy task force and concluded with the exclusion of Democrats from the energy conference. As a result, the Bush administration appears to see energy policy as a way to reward its friends while sidestepping the serious, lingering challenges that face this country and, in fact, the world.

In spite of our Nation's herky-jerky responses to energy policy, there have been some successful energy policy initiatives. Surely, the Strategic Petroleum Reserve, the Public Utility Regulatory Policy Act, and the clean coal technology program have proved invaluable. However, for the most part, there has been little foresight, no coherent framework, and no clear objectives on which to base future decisions. The Nation needs a long-term energy plan that includes criteria and benchmarks by which to measure progress. In short, it requires a more integrated, cohesive roadmap.

Now is the time for the cornerstones of our Nation's energy strategy to be solidly established. Opportunities exist for entrenched parties to come together on a more comprehensive and cohesive approach. This approach must integrate four fundamental principles: Diversity of energy sources to protect our Nation's security; fiscal soundness to ensure stakeholder support and increase economic growth; consumer protections to guard against fraud and manipulation; and safeguards to minimize energy's environmental footprint.

A serious energy efficiency program, bolstered by the promotion of renewable energy and other clean homegrown energy sources, provides a compass point for a U.S. energy strategy. At its core, we must rely on our Nation's domestic energy assets, especially coal. Coal must become a primary fuel source for new energy demands into the 21st century. However, to do so requires that we think differently about coal. We must accelerate the deployment of commercial-scale technologies that move us away from simply burning coal toward the enhanced ability to transform coal into a variety of energy products. We can begin to meet this challenge by deploying advanced power generation and carbon sequestration technologies as well as by producing hydrogen and synthetic fuels for use in other sectors of the economy. Parallel efforts must also be initiated to resolve the outstanding environmental and regulatory issues attendant to coal production and reclamation. This broad approach also requires sending strong and clear regulatory and market signals which can significantly reconcile numerous environmental and climate change concerns, stimulate technology deployment, and set the stage for a renewed era for coal.

Furthermore, our Nation must recognize the incredible impact that U.S. technologies and ideas can have in helping to meet other nations' energy needs in a more sustainable way. We must work to open and expand international markets for a range of U.S. clean energy technologies and simultaneously address global energy security, economic, trade, and environmental objectives.

The path that I am proposing here today goes far beyond the so-called comprehensive energy legislation currently before us. Pursuing this course will take steadfast leadership, hard work, and American ingenuity to move forward in a responsible, balanced, and intelligent way. It is time for industry, labor, academic, environmental, and community interests to work with policymakers to find common ground. Commonsense market-based and regulatory approaches, emerging technology platforms, and new policy perspectives can bring these divergent groups together. By doing so, we can champion a new energy and environmental legacy that will benefit all the world's citizens.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WARNER. Mr. President, the distinguished ranking member, Senator LEVIN, and myself, together with Senator LAUTENBERG and Senator KYL, are endeavoring to structure a program for the next 2 or 3 hours, hopefully.

In the meantime, our distinguished colleague, the Senator from New Mexico, would like to respond to some earlier remarks made in the Senate.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I thank the chairman for accommodating me and I thank the Senate for listening for a few minutes.

I was not here in person when Senator BYRD spoke about the need for an energy policy but I heard most of it. I will share with the Senate the reality of the energy problem in the United States.

I heard the distinguished Senator from West Virginia speak about issues such as electricity, the blackout that occurred, the shortage of crude oil that we have to import, natural gas problems, and all of those kinds of issues. I suggest it is wonderful to have somebody come to the Senate, especially from that side of the aisle, and talk about these problems and the need to do something about it, because the truth is, they have prevented the Senate from doing it. The very things he spoke of are in one or the other of the Energy bills we have put before the Senate and been denied. Most of the time the denial was because very few Democrats would support it.

So we did not get alternative fuels, so we did not get a fix to electricity blackout potential, we did not get a bill that produces huge quantities of American natural gas, we did not get a bill that fixed electricity so we would not have blackouts—on and on and on, all the issues and more that were spoken of by the distinguished Senator BYRD.

To talk about the fact that our country needs them or that the President did not do them is to forget, in a short period of time—it did not take long to forget—that all of these proposals have been voted down by the Democrats in this Senate.

Maybe there were other things in the bill they did not like, but I have never had anyone propose that if we change this and added that from that side of the aisle we could get a major energy bill. All we have heard is a filibuster and a vote against it.

One time they claimed there was a provision that was onerous to them and we got 58 votes and lost a filibuster. We removed that provision which they said was onerous. We then tried the bill without it.

And let's go again on the issues: huge production of American natural gas, some quick, some over time; a fix to the blackout problem; incentives for the electric grid to grow and prosper; incentives so we will have wind, which is right on the verge of becoming a major source—wind electricity—solar energy; and on and on. There are incentives for all those.

When you add them up, it was a comprehensive bill that fixed what was broken, added things we needed, and ultimately said to the world: America is ready to do something. They have finally stood up. And where there are no solutions, they did not find them. Anybody who thinks we could have a solution to produce more crude oil, step up. The only way we know is to tell Americans to use small cars. That would save gasoline. We tried it. The Senate is not for it. The House is not for it. I tried it in crowds. People are not for it. So that is the only one. It is out of the way.

So what can we do? We have to take care of the other energy sources. We have to make sure we do not get natural gas dependent, which we are about to be. We should tell the world we have alternatives to produce electricity. And we do, if we pass one of these bills. The problem is not that the President took too long, not that the President did not send us a proposal or that he did something in secret. We did our bill in public. So regardless of what you claim about him, we had an energy bill. We have an energy bill. As a matter of fact, I will offer it again before this session is out.

I understand somebody wants to put energy on this Armed Services authorization bill. Have at it. We will let you vote on the Energy bill at the same time. We will let you do that, and we will stand up and say: Are you ready or do you want to talk? Do you want to increase natural gas or do you want to blame somebody? Do you want to increase wind energy in America or do you want to complain?

I understand somebody around here wants to offer an amendment that we ought to fix this oil problem with the SPR, Strategic Petroleum Reserve. I was talking about that with my staff—and I would not do this, at least as of now—but I am thinking about it.

I say to the Senator, JON, what we ought to do is we ought to offer an amendment, when they offer that, and say that we want bin Laden to turn himself in; a resolution: We resolve that—after this, that, and the other—he ought to turn himself in to America. Why would I do that? Because that is about as apt to happen as we are apt to save anything on the price of gasoline with an amendment that says: Use SPR. We tried it once. It saved 1 cent.

It is there because we are in jeopardy. If somebody has a major explosion, a terrorist action, we need that SPR to take care of us. That is what it is for. That is why it ought to stay there. That is why it ought to be filled.

So if I sound like I am concerned, I am, because I get tired of people saying we need an energy policy and then voting against the very things they talk about.

I understand some Senators are opposed to specific pieces. We are open minded and ready to talk. If there are people who say, the way to get what we are talking about and complaining about is this, that, and the other, we listen. But until they have one, we want to continue to ask them to vote for an energy bill that is almost the same as their rhetoric, that almost does as much as their rhetoric asks for.

Mr. INHOFE. Mr. President, will the Senator yield?

Mr. DOMENICI. Every time this comes up, I will come down here and go through this laundry list, and ask them where they have been.

I will be glad to yield.

Mr. INHOFE. Is the Senator aware in the committee that I chair, the Environment and Public Works Committee, we have held several hearings: one on natural gas and the prices being spiked, one on fuel that we burn in our automobiles. We have had witnesses who have documented that we have two primary causes. One is all of these unreasonable environmental regulations these refiners are exposed to, and it directly relates to the cost of energy in this case. And the other is the Energy bill.

I say to the Senator, as you point out, we had a good energy bill. The House has a good energy bill. In that energy bill we had the ability to drill for oil in places where we cannot right now that would open up ANWR. If you look at the production in States, such as my State of Oklahoma and your State of New Mexico, the marginal wells—those are wells that produce 15 barrels a day or less—the statistic has never been refuted that if we had all of the marginal wells that have been plugged in the last 10 years flowing today, that would equal more than we are currently importing from Saudi Arabia.

So we have a solution to the problem. With all those people crying about the high prices, those are the major reasons we have high prices. I say to the Senator, you are right, we are going to have to have an energy bill to correct this situation. Do you agree?

Mr. DOMENICI. I agree.

I thank the Senator for his comments.

Let me say again, for purposes of discussion, I think we ought to have a resolution—if the Democrats offer a resolution regarding SPR—that says two things. I think the resolution ought to say: We think and we direct that Saudi Arabia pump more oil and sell more oil. The Senate says we resolve that they ought to do that. And, second, we think the terrorist we have been looking all over Afghanistan for should turn himself in. That should be the second part of our resolution.

Why I say that is because we would do as much for the energy crisis with that resolution as we will with one that tries to convince the American

people that the way to do this is to play around with the Strategic Petroleum Reserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, before the Senator leaves, I say to the distinguished Senator from New Mexico, we are prepared to accept, on both sides, the important amendment you had yesterday.

Mr. DOMENICI. Let me get it.

Mr. WARNER. Actually, it is at the desk. We could ask for its adoption, to meet your convenience.

Mr. President, I offered an amendment yesterday. Somebody said it had been withdrawn.

The PRESIDING OFFICER. The amendment has been withdrawn.

Mr. DOMENICI. But does that mean it still might be up there?

Mr. WARNER. Here we are.

Mr. DOMENICI. I have it.

Mr. WARNER. Mr. President, I think the Senator has his amendment.

Mr. DOMENICI. Is it in order?

Mr. LEVIN. You have to set aside the Lautenberg amendment temporarily.

AMENDMENT NO. 3192

Mr. DOMENICI. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I can offer this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am shortly going to send the amendment to the desk. It has about 15 cosponsors from both sides of the aisle. This amendment has to do with accelerating internationally the removal of fissile materials; that is, insecure radiological material and related equipment that cause us to be vulnerable to proliferation.

Many of us have worked very hard to put together a program where we and other nations will go to work at ridding the world of proliferation of nuclear products from the nuclear age. We think it is an exciting approach. Eventually, we have to fund it and Presidents have to implement it. But the Senate would be saying today it is good policy to get the world concerned about getting rid of radioactive material that came from the nuclear age.

My principal cosponsors are Senators FEINSTEIN, LUGAR, BIDEN, BINGAMAN, and a whole array of Senators. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mrs. FEINSTEIN, Mr. LUGAR, Mr. BIDEN, Mr. ALEXANDER, Mr. BINGAMAN, Mr. REED, and Mr. AKAKA, proposes an amendment numbered 3192.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To accelerate the removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites worldwide)

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

SEC. 3132. ACCELERATION OF REMOVAL OR SECURITY OF FISSILE MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED EQUIPMENT AT VULNERABLE SITES WORLDWIDE.

(a) SENSE OF CONGRESS.—(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) PROGRAM AUTHORIZED.—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) PROGRAM ELEMENTS.—(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials and radiological materials and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, nongovernmental organizations, and other international entities as the Secretary considers appropriate for the program.

(d) REPORTS.—(1) Not later than March 15, 2005, the Secretary shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) FUNDING.—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(f) DEFINITIONS.—In this section:

(1) The term ''fissile materials'' means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated

items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term ''radiological materials'' includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226 and Strontium-90, Curium-244, Strontium-90, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term ''related equipment'' includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term ''highly-enriched uranium'' means uranium enriched to or above 20 percent in isotope 235.

(5) The term ''low-enriched uranium'' means uranium enriched below 20 percent in isotope 235.

(6) The term ''proliferation-attractive'', in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

Mr. DOMENICI. Mr. President, since the collapse of the Soviet Union, I have recognized the danger posed by the potential risk of proliferation of materials or expertise from that nation. Through work with Senators Nunn and LUGAR for the original Nunn-Lugar Cooperative Threat Reduction legislation, and later with the Nunn-Lugar-Domenici Defense Against Weapons of Mass Destruction Act, I have worked to minimize this risk. Through these bills, and through several other initiatives, we have made progress on the nonproliferation front. But these are complex and difficult programs, success is measured in small steps. While we have come a long ways, we still have a long ways to go.

Some of the programs we have established, such as materials protection control and accounting, the initiatives for proliferation prevention, and the nuclear cities initiative, are working fairly well to address some of the major threat issues.

The HEU Deal is working to reduce stockpiles of highly enriched uranium, a prime concern for proliferation, although it has needed congressional help at times to keep it alive. The plutonium disposition deal is seriously stalled and needs attention at the highest levels in both the United States and Russia.

Even though we are making progress, the focus on terrorism over the last few years has substantially amplified the level of our concerns. In the process, we have learned more about the complicated routes through which important equipment technologies, such as enrichment capabilities, have moved to unfortunate destinations.

Our focus on Russia was appropriate a decade ago. But it is very clear today that proliferation must be viewed as a global problem. We must broaden our programs so that they have a global impact, not only focused on the former Soviet Union.

The increased threat of terrorism should encourage us to seek new ways to expedite the management, security, and disposition of materials that could be dangerous to our national security if they were to fall into the wrong hands. These materials include a range of fissile materials, with highly enriched uranium and plutonium being the ones of greatest concern.

Fissile materials and the specialized equipment to produce them aren't the only concerns. We have also heard concerns about radiological dispersion devices, or ''dirty bombs'' as they are usually called. Materials that would be useful in dirty bombs also need to be under far better control all around the world.

The amendment I am offering today is aimed at expediting global cleanout of nuclear materials and equipment that could represent proliferation risks. It includes in one package a range of authorizations, all of which need acceleration toward the overall goal.

Of greatest importance, it provides authorization for global activities, not only for activities focused on the former Soviet Union. And it encourages that we act in partnership with other governments, nongovernmental organizations, and other international groups that can assist us in this undertaking.

Fissile materials are targeted no matter where they are located, from existing vulnerable storage sites to research reactors to other reactor systems. The highly enriched uranium that fuels many of these research reactors, including those supplied by both the United States and Russia, represents a major concern for proliferation. Recent operations have led to removal of some of these materials, but many more reactors need attention.

As one example of a potential concern beyond the research reactors, the Russian ice breakers are powered with nuclear reactors using highly enriched uranium. I hope we can help to convert those reactors in the course of this program.

Authorities are provided to transport materials to secure storage, either here or abroad, along with provision of improved security at vulnerable sites. In addition, attention is paid to the operation of improved security systems once they are installed.

Technical support is authorized for the International Atomic Energy Agency or other countries to help in removal of material or upgrading of security. In addition, several initiatives address some of the current uses of highly enriched uranium.

New fuels are to be developed to replace fuels that use highly enriched uranium. New reactor targets are to be developed to replace targets that involve highly enriched uranium. And assistance with conversion of both reactors and targets to these new alternatives is provided.

Faster blend-down of highly enriched uranium is included in the new provisions. It is vital to get more of this material out of a weapons-ready form more quickly than only relying on the rates of blend-down established in the existing HEU deal.

The amendment also authorizes assistance in closure and decommissioning of sites of proliferation concern. In addition, programs are authorized for helping displaced employees from such sites and converting these sites to other uses. We have had similar programs in place for the former Soviet Union for years, but now with this amendment we can extend these programs to other countries as well.

With this global cleanout amendment, we will take a giant step toward providing the Department of Energy, in coordination with other Federal agencies, with the tools they need to minimize proliferation risks from nuclear materials wherever they are found around the world. In the process, we can help to make this world a safer place.

Mrs. FEINSTEIN. Mr. President, I rise today with my colleague from New Mexico, Senator DOMENICI, to introduce an amendment to address one of the critical security issues in the post-9/11 world: the existence of weapons-usable nuclear materials at hundreds of vulnerable facilities around the world.

President Bush has singled out terrorist nuclear attacks on the United States as the defining threat our Nation will face in the future.

In making the case against Saddam Hussein, he argued: ''If the Iraqi regime is able to produce, buy, or steal an amount of uranium a little bigger than a softball, it could have a nuclear weapon in less than a year.''

What he did not mention is that with the same amount of uranium, al-Qaida, Hezbollah, Hamas, or any terrorist organization could do the same and smuggle a weapon across U.S. borders.

And the fact that Pakistani nuclear scientist A.Q. Khan's network put actual bomb designs on the black market only heightens the need to make sure these materials are not available.

Nonetheless, there are hundreds of vulnerable facilities around the world that store from kilograms to tons of plutonium or highly enriched uranium. The State Department has identified 24 of these locations as high priority sites.

In response to this threat, the administration has focused its efforts on removing vulnerable international nuclear materials through four projects: the take-back by Russia of highly enriched uranium fuels from Soviet-supplied reactors; the ongoing effort to convert Soviet-designed research reactors from using highly enriched uranium to using non-bomb-grade fuels; the decades-long effort to convert U.S.-supplied research reactors from highly enriched uranium to low enriched uranium and the on-going effort to take back U.S.-supplied uranium.

These are important steps, but I am deeply concerned that these efforts are

not sufficient and do not adequately address the seriousness of the issue. For example, the current approach will take 10–20 years to complete at the current rate of about 1 facility per year. This time frame ignores the near-term dangers we face.

Under the current approach to the take-back of Soviet-supplied uranium, there have been only two successful removals of highly-enriched uranium in more than two years, at Vinca and at Pitesti. But the Vinca operation also required the additional contribution of $5 million from the Nuclear Threat Initiative to complete, because of the Bush administration's claim of inadequate authority to pursue various actions to facilitate Serbian cooperation.

The U.S.-Russian bilateral agreement on a broader take-back effort has taken years to complete—and even once final Russian government approval is secured, many obstacles remain. Indeed, Russia has never prepared certain types of environmental assessments related to these weapons. To move forward with this agreement, it will require sustained, high-level pressure.

U.S. efforts to convert highly enriched uranium-fueled reactors within Russia are still moving slowly on the technical front, in part because of insufficient funding. And we are only now beginning to take the first steps toward providing incentives directly to facilities to give up their highly enriched uranium.

The scope of the conversion effort in Russia is inadequate. It covers only research reactors, ignoring critical assemblies, pulsed powered reactors, and civilian and military naval fuels. This leaves numerous vulnerable HEU stockpiles scattered across the former Soviet Union.

Under the current U.S. uranium take-back effort, if no new incentives are offered, tons of U.S.-supplied nuclear materials will remain abroad when the program is complete. And scores of U.S.-supplied reactors may continue to use highly enriched uranium indefinitely.

If weapons of mass destruction, WMD, out of the hands of terrorists is the defining threat to our Nation, then removing weapons-usable material from facilities susceptible to terrorist theft should be a top priority for U.S. national security policy.

Yet, currently there is no single, integrated U.S. government program to facilitate the removal of these materials. To address this problem, Senator DOMENICI and I have offered this amendment to: urge the President to establish a task force within the Department of Energy on nuclear removal; provide a specific mandate for a program to remove nuclear material from vulnerable sites around the world as quickly as possible, whether the material was supplied by the U.S. or the Soviet Union; provide flexible approaches, tailored to each site, to encourage facilities to give up their nuclear material, and; authorize funding to begin these efforts.

Osama bin Laden has declared the acquisition of weapons of mass destruction a ''religious duty.'' After the Taliban was defeated, blueprints for a crude nuclear weapon were found in a deserted al-Qaida headquarters in Afghanistan. It is clear that obtaining a nuclear weapon is a top priority of al-Qaida.

And a report released last year by the John F. Kennedy School of Government at Harvard University demonstrated the severity of the threat posed by a nuclear weapon in the hands of terrorists.

The report described a scenario in which a 10-kiloton nuclear bomb is smuggled into Manhattan and detonated, resulting in the deaths of 500,000 people and causing $1 trillion in direct economic damage.

We must do everything in our power to prevent this from ever happening.

This amendment will give our Government the direction and resources necessary to remove nuclear materials from vulnerable sites around the world in an expeditious manner.

We have little time to spare. I urge my colleagues to support this amendment.

Mr. BIDEN. Mr. President, I am proud to co-sponsor the amendment offered by my colleagues, Senator DOMENICI and Senator FEINSTEIN, which authorizes a program to accelerate U.S. efforts to remove, secure, store, or destroy fissile and radiological material that might otherwise be accessible to rogue states or terrorists.

There could hardly be a higher priority—it is clear that terrorists seek to acquire materials to make a nuclear bomb. Many experts believe that terrorists would be capable of creating a nuclear weapon if they took possession of fissile material. Even the simpler, gun-type design, the type of bomb exploded at Hiroshima, could kill from tens of thousands to a million people if detonated in a large city.

Terrorists are also known to be interested in radiological material for a so-called ''dirty bomb,'' also known as a radiological dispersion device. While an attack with a dirty bomb would not cause many fatalities, it could render large areas uninhabitable and cause long-term economic devastation and psychological damage.

I thank Senator DOMENICI, and Senator FEINSTEIN for their work and leadership on this issue. Senator DOMENICI, in his role as Chairman of the Appropriations Energy and Water Subcommittee, has done much to shape the nuclear non-proliferation programs at the Department of Energy. Senator FEINSTEIN, also a member of that subcommittee, introduced legislation to facilitate the removal of nuclear material from vulnerable sites around the world. They have worked together to craft the bipartisan amendment before us today.

While many raised the alarm about the possibility of terrorists using weapons of mass destruction before September 11, 2001, the events of that day made clear to all what devastation could have been wrought had the terrorists attacked with weapons of mass destruction.

Witnesses at a hearing I chaired before the Senate Foreign Relations Committee on March 6, 2002, emphasized the need for multiple layers of defense against nuclear terrorism and said that the very first priority must be controlling fissile and radioactive material in the United States and abroad.

Since that time, there has been progress in securing, storing and destroying fissile and radiological material. But much more needs to be done.

The Department of Energy's International Materials Protection, Control, and Cooperation Program and its Radiological Dispersion Devices Program seek to secure nuclear weapons, weapons-usable nuclear materials, and radiological sources by upgrading security and consolidating these materials.

From fiscal year 1993 through this fiscal year, 2004, Congress has appropriated $1.58 billion for these Department of Energy programs, mostly to secure nuclear weapons and nuclear material in Russia. Because of them, and the related Cooperative Threat Reduction programs at the Department of Defense, hundreds of tons of bomb material is more secure and the nuclear material that could have been made into thousands of nuclear weapons has been destroyed.

Why, when so much has been accomplished, is this amendment necessary?

One answer is that while much has indeed been accomplished in Russia, highly enriched uranium, or HEU, and plutonium exist in many countries and in both military and civilian sites. There are 345 operational or shut research reactors that used HEU in 58 countries. Many of these countries have inadequate resources to operate or clean up these reactors. Few of them can afford to convert their HEU-fueled reactors, or their HEU targets used to produce medical isotopes, without outside assistance.

Another answer is that even in Russia, only a fraction of its highly enriched uranium has been destroyed. Many experts, including those involved with the Project on Managing the Atom at Harvard University, have urged that efforts be accelerated to ''blend down'' highly enriched uranium to low-enriched uranium, which is usable for nuclear power, but not readily for weapons. At current rates, it could take *decades* to blend down Russia's excess HEU. The urgency of the potential threat from the tons of HEU in Russia argues for a more robust program that would blend down HEU in years, not decades. The amendment before us today wisely authorizes an acceleration of our HEU blend-down programs.

In addition to authorizing accelerated HEU recovery and blend-down programs, this amendment would accelerate our efforts to help move nuclear facilities away from the use of HEU in nuclear reactor fuel and medical isotope production. It will also encourage increased efforts to recover and secure plutonium and radiological sources that might otherwise be accessible to terrorists.

The Domenici-Feinstein amendment provides for a comprehensive program to: securely ship at-risk fissile and radiological materials; raise processing and packing standards; provide interim security upgrades and improve management of vulnerable sites; manage materials at secure facilities; provide technical assistance to the International Atomic Energy Agency, as well as to countries; and provide assistance in the closure of risky sites.

This amendment will also improve our efforts to convert risky sites to, and place displaced nuclear workers in, activities that do not represent a proliferation threat. Both the Department of Energy and the Department of State have programs to help displaced workers, but there many worthy projects in this area go unfunded each year. We can and we must do more to ensure that nuclear weapons scientists and technical personnel are not left prey to the lures of contracts in rogue states or sales to terrorists.

The Domenici-Feinstein amendment will not solve all the problems that our non-proliferation programs face. We also need sustained attention by the President to removing roadblocks that have hindered our existing programs in Russia. Whether the question is access to sites, or immunity from taxation, or immunity from liability for U.S. persons involved in these programs, we need effective intervention at the highest level to solve those problems. It would be ironic, indeed, if our authorization of accelerated efforts were to be undone by the inability of President Bush and Putin to work out the implementation of those programs.

This amendment must do more than spur the Department of Energy to put more resources into our non-proliferation programs. It must galvanize the government at the highest levels to do more and do it quickly, before some terrorist group gains access to fissile our radiological material and uses it against us.

I commend Senators DOMENICI and FEINSTEIN for their important amendment and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend our distinguished colleague. This is a very important, innovative approach to one of the serious problems facing the world. I ask unanimous consent to be added as a cosponsor.

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

Mr. WARNER. I believe my distinguished colleague from Michigan has cleared it on his side and we are ready for action.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend Senator DOMENICI. He has worked long and hard on this issue. I am proud to be a cosponsor of the amendment. The bottom line is there are a number of instances where the Department of Energy has run into situations where it does not have, nor do other agencies have, the authorities which are necessary to remove or otherwise deal with this nuclear material which is at risk. The Domenici amendment will provide those essential authorities in order to take some very strong antiproliferation steps. It is a very good amendment. We support it on this side of the aisle.

Mr. WARNER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 3192.

The amendment (No. 3192) was agreed to.

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

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank the managers for their cooperation and their statements. I am not sure Senator LEVIN is presently a cosponsor. I ask unanimous consent that he be added as a cosponsor.

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

Mr. DOMENICI. And Senator WARNER has already asked.

Mr. WARNER. Yes, I have.

Mr. DOMENICI. I yield the floor.

Mr. WARNER. I see a Senator seeking recognition, so we will withhold a quorum call. My understanding is the Senator from Arizona wishes to talk about the proposal now under consideration, if that is agreeable.

Mr. LEVIN. Of course. If I may ask the chairman a question, I have no problem with that.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Is it still our intention to try to order the sequencing of two votes on these amendments?

Mr. WARNER. The Senator is correct. We have under consideration by our respective leadership at this time a program you and I have put to them to continue debate this afternoon on the Lautenberg amendment and the second degree by my colleague from Arizona at which time votes will be scheduled in the 5 to 6 timeframe.

I yield the floor.

AMENDMENT NO. 3191

The PRESIDING OFFICER. The Senator from Arizona.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona has been recognized to speak on his second-degree amendment.

Mr. KYL. I am happy to yield to the Senator from New Jersey for a question.

Mr. LAUTENBERG. If the Senator from Arizona will yield for a question, is a second-degree amendment still the proposal?

Mr. WARNER. Mr. President, the terminology is being worked on right now. Nothing is agreed upon at the moment.

Mr. LAUTENBERG. I thank the Senator.

Mr. KYL. Mr. President, what we have pending right now is a second-degree amendment to the Lautenberg amendment, and there will be discussions about precisely how that will be treated when this amendment and the Lautenberg amendment are voted on at the end of the afternoon.

Let me begin by noting what some of my objections are to the Lautenberg amendment. Then I will speak to the second-degree amendment which I have offered. The point of the Lautenberg amendment is to change the way in which sanctions are put on companies doing business abroad. The State Department has issued some objections to this amendment which I will speak to later. To summarize: That it would interfere with the President's discretion in conducting foreign affairs; that it would lead to a number of foreign policy problems for the United States; that it is unnecessary because the President exercises authority with respect to these foreign subsidiaries today.

To be precise about a particular concern the State Department expresses, the amendment would actually only focus on ownership, which is a standard that could easily be circumvented by these companies against whom we would all want sanctions to apply, and would be less effective than the administration's current approach utilized by the President. By defining this under the definition of control to mean owning at least 50 percent of the capital structure of the entity, the test could easily be circumvented by manipulating the percentage of ownership so that it remains under 50 percent, but at the same time maintaining control in fact.

Under current law, the U.S. Treasury Department considers both ownership and control so the President has the ability to exert this kind of sanction authority in a much more flexible way than would be the case under the amendment offered by the Senator from New Jersey. The Lautenberg amendment diminishes the President's authority and reduces the scope of the sanctions.

Finally, its impact on existing sanction programs is unclear. The authority exists already. The Lautenberg amendment would raise questions, complications, and reduce the President's flexibility in ways we don't

think would be appropriate. That is one of the reasons we are offering this alternative, this substitute or second-degree amendment, depending upon how we agree to characterize it.

This is an amendment which has been offered as a way to raise revenues for different purposes, but the revenues—perhaps $9 billion in revenues generated here, but in any event some amount, substantial billions of dollars—would be available for expenditures by the Secretary of Defense on a variety of equipment such as replacement of equipment lost in combat, ammunition, and selected items of high priority such as vehicles or night vision devices, Javelin missiles, sensors, unmanned aerial vehicles. In fact, to the degree that we would want to expand the existing program, which will be completed shortly for our own troops for additional add-on protection for shoulder and side-body areas or interceptor body armor for Iraqi troops, for example, or additional add-on ballistic protection for medium and heavy wheeled vehicles or multipurpose wheeled vehicles, all of those things could be paid for with the fees that would be generated out of this particular amendment.

What is this amendment? I had actually offered versions of this before. The point was to try to prevent the tobacco settlement of 1998 from resulting in a windfall to certain of the trial lawyers who were involved in that settlement. What we did is to utilize an existing Tax Code provision which says in cases of trusts, for example, where the trustee pays himself too much or an unreasonable fee, the IRS can impose an excessive tax. I say excessive because it is 200 percent of income. The purpose of it is to discourage the behavior of a trustee who would bilk the trust in effect by charging himself fees that are not deemed reasonable. And we utilize that same concept here, adding a second section immediately following that section of the Internal Revenue Code to provide similar treatment with respect to these unreasonable lawyer fees. So the concept is already in the Tax Code. We would simply apply it to the master settlement agreement for lawyer fees as well.

I make it very clear that, first of all, the amendment does not apply to any fees that have already been judicially reviewed and approved by courts under appropriate standards. It does not apply retroactively. It is only prospectively, to fees paid in the future out of the tobacco settlement on which taxes have yet to be collected. And by the way, there are about $100 million in fees paid out of this settlement every year. The trial lawyers will still receive billions of dollars in fees under this amendment, far more than their actual legal work would justify.

What we have done is to say that the cap on fees we had suggested before of $2,000 an hour—if you stop and think about it, that is a lot of money—we have scrapped that. Some people said, no, some lawyers might actually have been worth $2,000 an hour. Think about your plumber and what he charges per hour.

But we said, OK, how about $10,000 an hour. And they said, no, that is still not enough. These lawyers need more than $10,000 an hour. So what we have done in this amendment is to say: OK, we will bend over backward here, be fair to these poor trial lawyers. We are going to let them earn $20,000 an hour for every hour they put in. I think that is enough.

I am not sure that would meet most people's definition of reasonable, but we are going to say that that is reasonable, that they can earn $20,000 an hour. But that isn't enough. Some people have said this is the ''one yacht per lawyer rule.'' I am not sure what a yacht goes for.

The bottom line is that there is a point at which the fees are obscene and unreasonable and unethical, and under the existing IRS Code, this kind of conduct is taken care of by a special tax that is imposed of 200 percent. The same thing would be true here. Obviously, what the lawyer would do is to limit his fee to $20,000 an hour and then return anything in excess of that, so he would not be taxed at 200 percent—returning that money, in this case, to the Treasury of the United States of America.

So the tobacco companies are still going to pay every dime they committed to pay in lawyer fees. But the money, instead of going to the trial lawyers, after they have collected $20,000 an hour, will go to the U.S. Treasury to pay for the military equipment that is the subject of the bill before us right now.

Now, let me make a point about these fees being excessive. Some may dispute this, although, in view of the history, I cannot imagine anybody seriously disputing it. Let me give you some examples. I will start with reminding my colleagues exactly how the tobacco fees were awarded.

In the State of Texas, for example, trial lawyers were awarded $3.3 billion for their legal work—work that amounted in this case to filing a copycat lawsuit. The fee would amount to an effective hourly rate for these lawyers of over $100,000 an hour. Most people don't make $100,000 in a year. I don't even know how many hours there are in a year, but it is a lot. This is $100,000 an hour. That is wrong. I don't think they would suffer too much if we cut them down to $20,000 an hour.

My colleague from Texas, Senator CORNYN, was attorney general of the State of Texas and he had a firsthand relationship with this issue. In fact, it was a pretty difficult situation. Let me read to you some of the things he described about what happened in Texas. I am quoting the junior Senator from Texas:

> In my home State of Texas, trial lawyers have accused the then Attorney General of demanding $1 million in campaign contributions in exchange for their being included on the State's tobacco litigation team. One prominent lawyer—a former President of the Texas Trial Lawyers Association—has since said that the attorney general's solicitation was so blatant that ''I knew that instant . . . that I could not be involved in the matter,'' and he even later wondered if the meeting had been a ''sting operation.'' Another lawyer simply characterized his encounter with the attorney general as a bribery solicitation.

He describes the rewards these trial lawyers reaped for their political investment:

> As for the five law firms that actually did represent Texas in the tobacco litigation, they filed relatively late lawsuits based on other lawyers' work—and were awarded $3.3 billion in attorneys fees. This award amounts to compensation that, even had these attorneys worked all day, every day during the entire period of the litigation, is well in excess of $100,000 an hour. As one newspaper editorial has noted, for the amount of money that these lawyers were awarded, Texas could hire 10,000 additional teachers or policemen for ten years.

Senator CORNYN also described how these excessive and, I suggest, clearly unethical fees were obtained by lawyers in other States:

> In Maryland, [a tort lawyer, a billionaire] demanded a $1 billion fee for his work on that State's case, even though, according to the State senate President, the State legislature had retroactively ''changed centuries of precedent to ensure [his] win in the case. [He] ultimately received an accelerated $150 million payment for this no-risk lawsuit.
>
> In Massachusetts, according to other tobacco plaintiffs' lawyers, Massachusetts' suit piggybacked on the work of other lawyers and was not pivotal to the outcome of the tobacco litigation. Result: $775 million was awarded to the Massachusetts lawyers in that [State's arbitration on the tobacco case.]
>
> In Missouri, a State supreme court justice in Missouri resigned his post in order to join one of the private law firms expected to receive a portion of the [tobacco fee award.] Ultimately, the firms representing the State spent just 5 months on the State's lawsuit. They received a fee award of $111 million. One State leader has described the award as ''the biggest rip-off in the 180-year history of the State.'' The law firms receiving these fees had donated more than $500,000 to State politicians and parties in the years leading up to their selection as the State's outside counsel.

As I mentioned earlier, these fee contracts were awarded in a variety of ways, including through political cronyism, and really resulted in very little original legal work. That is my assertion to you. Don't take my word for it. On this tort reform issue, even many of the trial bar lawyers are in full agreement that the lawyers' fees here were excessive. They certainly should know; they are experts in this area. This is what some folks, including some tobacco lawyers, had to say:

Michael Ciresi, a pioneer in tobacco litigation who represented the State of Minnesota in its lawsuit, and who is very familiar with these lawsuits, has said that the Texas, Florida, and Mississippi lawyers' fees awards ''are far in excess of these lawyers' contribution to any of the State results.''

Washington, DC lawyer and tobacco industry opponent, John Coale, has denounced the fee awards as ''beyond human comprehension'' and stated that ''the work does not justify them.''

Even the Association of American Trial Lawyers, the Nation's premier representative of the plaintiffs bar, has condemned attorneys' fees requested in the State tobacco settlement. The President of ATLA stated:

> Common sense suggests that a $1 billion fee is excessive and unreasonable and certainly should invite the scrutiny [of the courts.] [ATLA] generally refrains from expressing an institutional opinion regarding a particular fee in a particular case, but we have a strong negative reaction to reports that at least one attorney on behalf of the plaintiffs in the Florida case is seeking a fee in excess of $1 billion.

Perhaps the best gloss on the tobacco fee awards is that provided by Professor Lester Brickman, a professor of law at Cardozo Law School, a noted authority on legal ethics and attorney fees:

> Under the rules of legal ethics, promulgated partly as a justification for the legal profession's self-governance, fees cannot be ''clearly excessive.'' Indeed, that standard has now been superseded in most States by an even more rigorous standard: Fees have to be ''reasonable.'' Are these fees, which in many cases amount to effective hourly rates of return of tens of thousands—and even hundreds of thousands—of dollars an hour, reasonable? I think to ask the question is to answer it.

Let me emphasize one more point. Lawyers are universally held in the law to be fiduciaries. That is, they owe a duty of trust to their clients, a special duty of trust. One can easily understand why that is so. As such, as a fiduciary, under the legal ethics that apply to every lawyer, lawyers are not allowed to take advantage of their clients with regard to their fees. A contract for an unreasonable or unethical fee, for example, is unenforceable in the courts, and the excessive portion of the fee must be returned to the client. Numerous legal authorities confirm that lawyers are fiduciaries whose fees have always been subject to enforceable reasonableness requirements. I say this because, of course, that is what we are doing right here.

We have done that with respect to other fiduciaries in the Tax Code—the trustees I spoke of earlier—and we can obviously do it here also. One court said:

> We realize that business contracts may be enforced between those in equal bargaining capacities, even though they turn out to be unfair, inequitable, or harsh. However, a fee agreement between lawyer and client is not an ordinary business contract. The profession has both an obligation of public service and duties to clients which transcend ordinary business relationships and prohibit the lawyer from taking advantage of the client.

I will tell you what another court said:

> An attorney is only entitled to fees which are fair and just and which adequately compensate him for his services. This is true no matter what fee is specified in the contract, because an attorney, as a fiduciary, cannot bind his client to pay a greater compensation for his services than the attorney would have a right to demand if no contract had been made. Therefore, as a matter of public policy, reasonableness is an implied term in every contract for attorney's fees.

So the choice before the Senate is either to allow the tobacco settlements to be diverted to self-dealing billionaire tobacco lawyers, or to provide our troops in Iraq and Afghanistan with additional combat equipment to help them perform their missions.

The choice could not be more clear: We can either allow the de facto taxes imposed by the tobacco settlement to continue to be diverted to pay $100,000-an-hour fees to these politically connected billionaire lawyers or we can put those taxes to use providing our troops with additional equipment.

We already have the precedent of doing this with respect to other fiduciaries in the Tax Code, specifically section 4958. This adds a new section immediately following, section 4959, that applies the very same concept to these particular fees. It is prospective only. It does not apply to anything that the court has already approved.

I cannot imagine how this would not be a good idea. The amendment is a sense of the Senate to pass this proposition. I urge my colleagues to support it, assuming we have a vote on this perhaps in an hour and a half or so this afternoon.

Mr. President, if there is no one else seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we have had some discussion about what we can do to help raise the funds to finance our fight against terrorism. At this point, we are spending $5 billion a month in Iraq. I think if we wanted to really get some money raised to continue that assignment, which we must, then perhaps we ought to consider repealing the top tax rate cut for all millionaires and raise even more money for our troops than what has been offered.

I have an amendment. It has been modified. It is fairly obvious that we are talking around the issue. It is surprising that we cannot get together in an effort to dissuade companies, to prevent companies that are doing business with terrorist states from continuing to do that. My amendment says if a U.S. company owns 50 percent or more of a corporation, that it would be a violation of law for them to continue to do business with terrorist states.

I do not know what the concerns are about this amendment. It is fairly clear we are spending so much money, so much effort, and so many lives to fight terrorism. When we register concern about American companies doing business with these terrorist states, we seem to have created a climate that has people objecting and, frankly, I don't understand why.

When we talk about supplying revenue opportunities to Iran, we have to remember that they funded the 1983 terror attack in Beirut, killing 240 U.S. marines. We are talking about an Iranian Government that funds Hamas, Islamic jihad, and Hezbollah. I ask my colleagues whether there is anyone here who would stand up and tell the American people why we should be helping Iran. Is there anyone here who can explain how it helps our soldiers to make sure that funds and potential profits are funneled to Iran? How does it help our troops to make sure Iran has more money to pass on to terrorists? We want to shut that down.

My amendment offers a simple proposition: You are either with us or against us, and if we are serious about the war on terror, then we have to cut off every revenue source we can of those sponsors of terror. President Bush said himself, ''Money is the lifeblood of terrorist operations.'' He is right. We know that terrorist groups, such as Hamas and Islamic jihad, are funded by Iran and other rogue states, and we need to cut off that funding opportunity.

Terrorist operations cannot survive without funds, and that is why our sanctions program is so critical. No American business should provide revenues to state sponsors of terror, and the nations that sponsor terrorism need to learn they will be denied business opportunities as long as they are funding terror groups.

Right now, American companies are doing business with terrorist states through foreign subsidiaries, and we must stop this practice. As long as this loophole is in place, our sanctions laws have no teeth.

We know that many companies find tax loopholes or regulatory loopholes that they exploit from time to time, but in this case, we are talking about companies exploiting loopholes just so they can do business with terrorists—sham corporations.

I urge my colleagues to look at this chart because it demonstrates how companies utilize this loophole.

If a U.S. corporation has a foreign subsidiary, they can send money to Iran. Iran can then send money to support Hezbollah or Hamas in their terror, suicide bombings, with their interests in developing weapons of mass destruction. We all believe that is in the works now. We should not in any way permit these companies—American companies created here, earning their living here, the executives earning their bonuses here—to be able to get some of that money as a result of sending funds to places such as Iran and other terrorist states.

U.S. companies often have several subsidiaries, and most U.S. companies

and their subsidiaries do not cross the line that prevents business with terrorist states, but some do.

President Bush also has declared that Iran is part of the ''axis of evil,'' and he couldn't be more right. My amendment says that if we are going to impose sanctions on rogue nations such as Iran, then let's be serious about it. Let's make sure Iran is isolated for their sponsorship of terrorism.

In addition to the 240 marines who were brutally murdered in their sleep in 1983 in Beirut, Iranian-backed terror killed these 2 young American women, 22-year-old Sara Duker and 14-year-old Abigail Litle. They were traveling in Israel. Sarah Duker was a constituent of mine from Teaneck, NJ. A summa cum laude graduate of Barnard College, Sara was killed with her fiancé when the bus she was riding on in Jerusalem was blown up in 1996 by Hamas. Again, Hamas receives funding and support from the Iranian Government.

Last year, 14-year-old Abigail, originally from New Hampshire, was riding home from school in Haifa when her bus exploded as a result of a suicide bombing. That attack killed 15 people and was directly linked to terrorists funded by Syria and Iran.

Iran sponsors terrorism, and they glow in that relationship. They love to let the world know they are out to harm Americans. The terror they help fund has killed hundreds of Americans and yet American companies are utilizing a loophole in order to do business with the Iranian Government. I want to close the loophole.

It is inexcusable for U.S. companies to engage in any business practices that provide revenue for terrorism. The bottom line is that big businesses, even those with financial ties to the top members of our Government, do not get a free pass in this war on terrorism.

I hope that when my amendment comes up for a vote later on that all of my colleagues will step up and ask the questions of themselves: Why do we want to promote anything that would send funds to Iran or other rogue terrorist nations? I cannot understand why that would be.

There are laws that say it should not happen, but they lack teeth. The process does not work. So I urge my colleagues, when the opportunity comes a little later in the day, to pass this amendment to close a terrorist funding loophole.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, today I join Senators LAUTENBERG and FEINGOLD in cosponsoring an amendment to the Department of Defense authorization bill.

This amendment will close loopholes that have allowed some American companies to skirt U.S. law by working with and operating in countries that have been identified by the President as supporters of terrorism.

Although Federal law prohibits U.S. companies from conducting business with nations that sponsor terrorism, a few firms have exploited a loophole in the International Emergency Economic Powers Act and are doing business through foreign subsidiaries, thereby providing terrorist states with revenue and other potentially important benefits.

Under the amendment we are introducing today, foreign subsidiaries are barred from engaging in commercial transactions with terrorist-sponsoring states under the same standards and under the same circumstances as their parent companies.

The definition of corporate entity would include not only U.S. companies and all foreign branches, but also foreign subsidiaries.

Subsidiaries of certain companies have been using foreign subsidiaries to conduct business in countries such as Iran.

Many of these foreign subsidiaries are often formed and incorporated overseas for the specific purpose of bypassing U.S. sanctions laws.

This amendment does not change which countries are subject to U.S. sanctions or interfere with the President's ability to invoke the International Emergency Economic Powers Act; and it does not change the sanctions under the act in anyway.

It simply clarifies who is subject to the sanctions when and if they are invoked by the President.

Currently Iran, North Korea, Cuba, and Libya have been targeted by the President under the International Emergency Economic Powers Act, all countries that we can agree deserve to be on the list.

Despite the tens of billions of dollars that we are spending on the defense of our homeland, we still have a law on our books that allows U.S. companies to assist the very nations that support terrorist activities aimed at us. This is unconscionable.

I want to applaud the efforts of New York City Comptroller, the New York Police Department, and the New York Fire Department to bring this problem to the Nation's attention.

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. WARNER. Mr. President, on behalf of the leadership, and working with my ranking member, the Senator from Michigan, I make the following unanimous consent request.

I ask unanimous consent that the time until 5:30 be divided between the chairman and ranking member or their designees as follows: 55 minutes to Senator LEVIN, 30 minutes to the Senator from Virginia; provided further that the Senate vote in relation to the Kyl amendment, which is to be drafted as a first-degree, to be followed by a vote in relation to the Lautenberg amendment; provided further that no second-degree amendment be in order to either amendment prior to the votes. Finally, I ask unanimous consent that following the votes the Senator from Virginia or his designee be recognized in order to offer the next amendment, and following that, that the Senator from Michigan be recognized in order to offer the sequential amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, using what the Senator, the distinguished chairman outlined, we would vote at 5:30 or thereabouts; is that right?

The PRESIDING OFFICER. That is correct.

Mr. REID. No objection.

The PRESIDING OFFICER. It is so ordered.

Mr. WARNER. Mr. President, I would like to say a few words about the underlying amendment. In the opinion of the Senator from Virginia, the amendment would make it more difficult for the President to impose sanctions on states that support terrorism. At present, the President must weigh the benefits of imposing sanctions against the costs of such sanctions, including costs to U.S. businesses that may be affected. Second, the amendment will introduce a new factor into this balance, weighing against the imposition of sanctions: the objections of foreign countries to the extension of U.S. sanctions laws to reach companies organized under their jurisdiction. European countries in particular have strenuously objected to U.S. actions they perceive to involve the extraterritorial application of U.S. law.

Because the amendment leaves the President no discretion not to cover companies organized under the laws of other countries, and thus avoid such objections, the amendment introduces a new cost the President must overcome in any decision to use sanctions to fight terrorism.

The amendment is unnecessary because existing law already provides the President the ability to prevent U.S. companies from evading U.S. sanctions through the use of foreign subsidiaries. Existing U.S. sanctions regulations prohibit actions by U.S. companies to evade or avoid U.S. sanctions. U.S. companies that create foreign subsidiaries for the purpose of evading U.S. sanctions laws may be prosecuted for such evasions. Existing U.S. sanctions regulations also prohibit U.S. companies from approving or facilitating actions by their foreign subsidiaries that would constitute violations of U.S. sanctions laws if undertaken by a U.S. company. Similarly, U.S. sanctions regulations prohibit any U.S. citizen employed by a foreign company from taking actions in violation of relevant U.S. sanctions.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I yield such time as the distinguished Senator from Kentucky may wish.

The PRESIDING OFFICER. The Republican whip.

Mr. MCCONNELL. Mr. President, I commend my friend from Arizona, Senator KYL, for offering his important amendment. It seeks to remedy an unethical fee schedule and provide a way for us to protect the soldiers, the taxpayers, and the public treasury all at the same time.

Lawyers, of course, have a fiduciary duty to their clients and one component of that duty is, to put it plainly, not to rip them off. But in the tobacco cases, as my friend noted, plaintiffs' lawyers got as much as $100,000 an hour for providing ''legal services,'' and I use the term ''services'' loosely. Their efforts were often duplicative of legal work others had done.

I think the notion that those who file what are in large part copycat lawsuits should get paid as much as $100,000 per hour for such work is absurd on its face. Absolutely absurd.

If anyone does not believe me, let's look at what some of the lawyers themselves have said about the situation I have described. Michael Cerisi, who pioneered the tobacco litigation and who represented the State of Minnesota in its lawsuit against the tobacco industry, said the fees of the lawyers who brought the lawsuits on behalf of Texas, Florida, and Mississippi ''are far in excess of these lawyers' contribution to any of the state results.''

John Coale, Washington, DC, lawyer and noted opponent of the tobacco industry, has denounced the fee awards as ''beyond human comprehension'' and stated that ''the work does not justify them.''

Even our friends at the American Trial Lawyers Association have found it very difficult to defend this practice. The past president of ATLA has said:

> Common sense suggests that a one billion dollar fee is excessive and unreasonable and certainly should invite. . . . scrutiny.

That is the past president of ATLA. He goes on to say that ATLA:

> . . . generally refrains from expressing an institutional opinion regarding a particular fee in a particular case, but we have a strong negative reaction to reports that at least one attorney . . . is seeking a fee in excess of one billion dollars.

The Tax Code already provides a remedy for abuses by certain fiduciaries. It requires trustees to disgorge themselves of ill-gotten gains that are due to the violation of their duty as fiduciaries. The Kyl amendment simply expresses the sense of the Senate that we ought to amend this section of the Tax Code so that it encompasses other important fiduciaries—namely, personal injury lawyers in mass tort cases. I would be shocked if my colleagues opposed it. If they do, they would be saying it is more important for personal injury lawyers to receive more than $20,000 an hour than it is to use excessive fees to protect our troops.

The Kyl amendment notes some of the things that could be purchased by requiring the disgorgement of these ill-gotten gains: up-armored high-mobility multipurpose wheeled vehicles; add-on ballistic missile protection for medium and heavy wheeled vehicles; interceptor body armor including add-on protection for the shoulder and side body areas; unmanned aerial vehicles; ammunition; night-vision devices; sensors; Javelin missiles; and replacement of equipment lost in combat.

This amendment does not turn personal injury lawyers into paupers. It only applies in mass tort cases where the judgment is over $100 million, and it merely ensures that lawyers do not take advantage of their own clients.

With respect to the tobacco litigation in particular, it provides that plaintiffs' lawyers are guaranteed to make no less than $20,000 an hour. That is right—not $20,000 a week, not $20,000 a day, but $20,000 an hour. In short, it guarantees plaintiffs' lawyers a minimum wage of $20,000 per hour. If they can show somehow that it is appropriate for them to be paid more, then I suppose they could even get more than $20,000 per hour. What it will prevent, however, is personal injury lawyers being able to get, as a matter of course, unjustified and excessive fees from their clients to the tune of $100,000 per hour or even more. My friend from Arizona has referred to this as the ''one yacht per lawyer'' rule. With a minimum wage of $20,000 per hour, I think it is more appropriate to term it the ''one yacht per lawyer per week'' rule.

I hope my colleagues will not choose trial lawyers over the troops.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I ask my friend to yield whatever time I may consume.

Mr. LEVIN. I am happy to do that.

Mr. REID. Mr. President, I have been called upon in the past, as have other Members of this body, to interfere with what goes on in corporations—that is, to tell corporations they are limited in what they can pay their corporate executives. I have chosen not to become involved in that. I truly believe, even though some of these compensation packages are outlandish, in my opinion, it is not up to me. In our free enterprise system, it is up to the board of the directors of those corporations to determine what someone is worth. It is inappropriate, in this free enterprise system in which we are living, we take away the ability of corporations to run corporations.

I have always looked at the salaries of ballplayers. We have a 14-year-old boy named Freddie Adu, who is the highest paid player in the American Soccer League. Now, are they paying a 14-year-old boy too much money? He is making more than people who have played soccer for 20 and 25 years. It is kind of up to them to determine how much money he should get.

The average salary of a professional Major League baseball player in America today is around $2 million a year. That is a lot of money for a person who bats a ball, throws a ball, catches a ball, and runs around the bases, but that is what they get in our free market system. They get a lot of money.

My friend Greg Maddux from Las Vegas made $15 million last year. He pitched about 30 times. I don't know how much that amounts to, but that is a lot of money he makes. This year he has taken a tremendous cut in pay. He is only making $8 million a year. However, Greg Maddux is being paid what the market determined he was worth. He was released by the Atlanta Braves and he shopped around. The Mets wanted him, the Baltimore Orioles looked at him, and he determined, rather than go with San Diego and the other teams I mentioned, he would play in Chicago for $7 million or $8 million a year. That is what America is all about, the free enterprise system.

If we want to be picky and talk about how much is too much, we might want to take a look at a man by the name of Reuben Mark—Colgate-Palmolive—who in 2003 was paid $149,970,000. That is a lot of money. That does not take into consideration a lot of the stock options he could have exercised if he had wanted to. I have the amount of money he could make from the stock options he could exercise if he chose to. It is, again, in the tens of millions of dollars. I cannot find it right now. Let's see if I can flip over to that. But it is a lot of money.

George David, of United Technologies, last year made almost $71 million. Again, it does not take into consideration the other money he could have made had he wanted to. Is United Technologies paying him too much money? It is none of my business, I believe, as a Member of Congress to tell United Technologies how much money they can pay George David.

Is it my business to determine how much Lehman Brothers can pay Richard S. Fuld, Jr? Last year he made almost $68 million. I do not think so. I think it is up to this company. Even though I think this is a huge figure to be paid, and I think it is unfair to the stockholders, I am not on the board of directors, and they may know things I do not know. And, in fact, they do.

Henry R. Silverman, with a company called Cendant, made over $60 million last year. Should we interfere with this? The answer is no.

Right here in the Washington, DC, area, there is a man by the name of Dwight Schar. I wish I had known this guy was as rich as he was. Or maybe I do not wish that. When we moved here 22 years ago, we bought the home that he lived in. He was living there. I went and met Dwight Schar, kind of a quiet guy. He did not say much. I understand now why he was unwilling to negotiate

the price of that home. He said that is what he wanted, and he was unwilling to change that. Obviously, he is a good negotiator because last year he made over $58 million from NVR. They build homes.

Oracle Company paid Lawrence Ellison almost $41 million last year. And on and on, with these huge corporate salaries.

Using the logic of my friend, the distinguished junior Senator from Arizona—a fine man; I have great respect for him, but using the logic he used today, then, the free enterprise system really must not apply to everybody, only to some. We know there are companies that are well known around here. As I indicated, Reuben Mark of Colgate-Palmolive was the champion last year, that we know of at least, at $148 million. He did quite well. He had, just from stock alone, $131 million last year. And he is just one of a number of people.

But we have others who did quite well last year who are almost household names around here—not because they are known as good businesspeople, as are those people I have mentioned to this point; every one of these men I have talked to, Dwight Schar and all the rest, are known as extremely good businesspeople. But as we get down to some of these corporations, for example, we could take a look at David Lesar, who is the chairman and president of the Halliburton Company. Last year he did not do as well probably as some. He only made about $8 million last year from Halliburton. But he has, of course, $26 million in unexercised stock options that he could have used. But I guess with all that is going on with Halliburton—and that, of course, is the basis for this amendment that has been offered by my distinguished friend from New Jersey, Senator LAUTENBERG.

We do not, as Members of Congress, have the right, in my opinion, to interfere with the private sector. I have no right to say that Freddie Adu is making too much money playing soccer as a 14-year-old boy, or that Barry Bonds is making too much money, or that some guy who is batting .220 playing in the Major Leagues is making too much money being paid $15 million a year. Should we in Congress say that because he is not batting more than .240, his salary should not be more than $6 million? I do not think so.

Do we have any right to tell these companies that I have mentioned here that they are paying their people too much money and that Congress should step in and stop them from doing so? I do not think so. I have never felt that way.

We have here before us now a situation where we have a sense-of-the-Senate resolution. It was filed in that sense because had it been filed any other way there would be technical objections to it. So this is a so-called message amendment. It has no real impact. Even if it passed, it does not mean anything. But it is an attempt to embarrass people. It was offered because people are very uncomfortable with the amendment offered by my friend from New Jersey.

The distinguished Senator from New Jersey has offered an amendment that directs attention to some of the things that are going on with American companies, saying their foreign subsidiaries should not be able to do business with terrorist organizations and countries that work with terrorist organizations.

Mr. President, I was a lawyer. I am not ashamed, embarrassed, or concerned that in the past I have taken cases on contingent fees. What does that mean? It means someone came to me, and they had no money to prosecute their own case, and they said: Mr. REID, here is what has happened to me.

I can give you a couple examples that come to my mind. I can remember a woman by the name of Billie Robinson who came to me. I mentioned her name once before on this floor several months ago. Billie Robinson came to me. She was from Searchlight, NV, where I was born and raised. When she came to see me, I did not know her. I, of course, had been gone from Searchlight since I was a little boy. But she knew my mother who lived in Searchlight.

She could not talk very well. I proceeded to visit with her, and her problem was this: Billie Robinson had headaches, and she would come over to Searchlight to see various doctors. They told her: The only thing wrong with you, Billie, is you need to sober up. You are a drunk.

What they did not know and she tried to explain to these people is her headaches were so bad she drank a lot. By the time they realized, after about a year and a half, that she was having headaches because she had a tumor—they had misdiagnosed her condition—they operated. That is when it affected her a lot. She was not the same person after the surgery.

So she came to me and said: What should I do? So I represented her. I took that case on a contingent fee. For every dollar I got for Billie Robinson, I got a third of it. That was a standard fee. It still is a fairly standard fee. I did not know if I was going to be able to recover anything because when you go against doctors sometimes these cases are very complicated and involve expert witnesses. They fought this case for a while. Finally, I was able to arrive at an agreement, and we settled the lawsuit for Billie Robinson. I got a third of what we recovered.

Now, how much was I paid an hour? I really do not know. I was probably paid pretty good by the hour. But it was a case that she had shopped around, and other people would not take her case. I took a chance. I advanced fees for Billie Robinson, and I got her enough money that she led a comfortable life. She bought a new mobile home that she parked there in Searchlight. She had someone who could come in and help her. Now, does this Congress have the right to come in and say that the agreement she made with me was a bad deal, that I was paid too much money? I do not think so.

I remember a woman by the name of Joyce Martinez who came to see me. She was a really nice woman. She had been all over town trying to find a lawyer to take her case. This woman was a cocktail waitress at the Hacienda Hotel on the Strip in Las Vegas. She was there in her little skimpy gown they have, serving drinks to people, and the Las Vegas Police Department came and arrested her, took her off to jail because of her having written bad checks. She had not written any bad checks.

So I filed a lawsuit against Safeway Stores, and people, including the judge, said: What are you doing taking our time on this case? I demanded a jury. And I got a lot of money for Joyce Martinez. That was on a contingent fee. I took a chance on that case, and I won the case. I was paid pretty good by the hour. I do not have any reservations about having been paid a pretty good sum by the hour.

This Congress has no right in our free enterprise system to second-guess what Joyce Martinez did. What we are doing here is saying that attorneys, who entered into contracts to represent people—and sometimes not contracts, sometimes the State came in later and looked at the good works that they did—I do not know all the facts of this tobacco stuff, but I do know there were a number of lawyers, a handful of lawyers, in America who decided they would take on the tobacco industry.

It took a lot of money to fight one of the biggest businesses in the world, tobacco. And after many years, they won. It is a benefit to everyone in America that they won because now they cannot at will go out and solicit young children to smoke cigarettes and to become sick and addicted to tobacco. We owe those lawyers a debt of gratitude, not to say they are making too much money. Had it not been for those lawyers, we would still be having children openly and notoriously being attacked by advertising and other means to start smoking. That is what they did. The lawsuits uncovered the fact that they knew how much tobacco was addictive, and they went after these children. These children now are dying of emphysema.

I don't know for sure, but Smarty Jones' owner, I will bet, was a big smoker, and I bet he started as a kid. That is why you see him now being wheeled around and trying to breathe through that apparatus.

At my home in Searchlight, Fritz Hahn had a place there and watched my home for 15 years. He started smoking as a teenager. He is dead now, having died within the past 6 weeks as a result of tobacco, cancer of the throat. He suffered and suffered, and he is

dead. Now as a result of the work of these tobacco lawyers, there are going to be fewer Fritz Hahns in the world. I don't apologize for how much money these lawyers made. They did me, my children, my grandchildren, and my children's children a favor.

I also believe the pending amendment is discriminatory, unprecedented, unconstitutional, and just plain bad policy. This amendment endorses the idea that Congress should fix the rates attorneys are allowed to charge for providing services, not for everybody but certain types of clients. If a lawyer earns more than Congress allows, that person will have to pay back the extra or pay a 200-percent penalty. A 200-percent tax on income is unprecedented in this great Nation. Our Nation's tax system has never had this before. Never in the history of this Nation have we assessed a 200-percent tax on income that is legally earned that I have heard of.

Justice Marshall said it best when, in the infancy of this country, he declared the power to tax is the power to destroy. There could be no better illustration of that concept than this amendment.

In this Congress, my friends on the other side pay a lot of lipservice to the free market. But they don't like the free market very much now in this case with this amendment. First of all, this amendment would interfere with legal private contracts just like the one I had with Joyce Martinez, just like the one I had with Billy Robinson. Legal fees are not assessed taxes. They are not assessed out of the control of the clients. When someone wants to hire a lawyer, they can generally choose from a variety of attorneys who will perform the necessary services.

I gave two examples where these women couldn't find anybody else to represent them. I have taken a lot of cases, I am sorry to say—I am not sorry to say, it is part of the system. I have taken cases where I didn't get anything back, but I thought I was doing the right thing by taking them. I can remember a case where a little girl stepped off a schoolbus and was hit by a car on Russell Road in Las Vegas. I tried that case to a jury. I thought I deserved to win that case. I lost it. I felt bad about that. But that is what our free enterprise system is all about, the free market system.

This amendment would interfere with legal private contracts. Clients don't have the power to negotiate rates with attorneys they retain all the time. If a client feels a rate is unfair, there is nothing to prevent that client from taking the business elsewhere.

Beyond being bad policy, I oppose this amendment because it encourages constitutional taking of private property. By forcing attorneys to return their fees or suffer a 200-percent penalty without any semblance of legal process, this amendment demands these professionals simply hand over to others income they have lawfully earned.

There may be some who believe a tobacco lawyer earned too much money, just as I feel Reuben Mark made too much money, just as I feel George David made too much money, Richard Fuld made too much money, Henry Silverman made too much money, and Dwight Schar made too much money. But it is not my right as a Member of this Congress to tell them they can't make that much money.

It is no secret why Members of the other side of the aisle, in my opinion, are interested in passing this kind of amendment. This amendment uses the Tax Code and the full power of big Government to punish one particular kind of lawyer, the kind who tries to protect consumers from big corporations.

A Republican governor in the State of Nevada, Kenny Guinn, my friend, established what is called in Nevada the millennial scholarships, giving scholarships to large numbers of children who have a B average when they graduate from high school. With what are those scholarships paid? Tobacco money. From where did the tobacco money come? From these lawyers who went to court and took a chance. That is where the money comes from.

In Nevada, as in many other States, there are programs similar to that. We are saying, what did these lawyers do to earn their money? Ask a kid going to college in Nevada who wouldn't have the opportunity to go to college but for Kenny Guinn's millennial scholarships.

These lawyers, the ones they are trying to castigate and punish here, are the lawyers who try to protect consumers from big corporations. These tobacco companies are big corporations, and due to the lawyers they are getting smaller all the time. The same people who want to cut taxes for the wealthiest corporations in our country now want to impose an unprecedented 200-percent tax on attorneys who hold these powerful companies accountable when they cause injury to ordinary Americans and their families.

This amendment sets a terrible, horrible precedent that next we are going to be looking at these salaries. Next we are going to be looking at Freddie Adu's salary to see if he is making too much money or that man who plays baseball who is batting .210 and getting paid $18 million a year.

If we look back, it is a dark chapter in the history of our Federal Government, but one of the articles of impeachment against President Nixon dealt with his abusive and discriminatory use of tax laws to harass his political enemies. I don't compare this to that, but I think it is something that draws reference, that what we have here is an effort to punish and use discriminatory tax laws to harass someone you don't like, the tobacco lawyers.

This is a bad amendment. I am confident people of goodwill will join together, Democrats and Republicans, and resoundingly defeat this very un-American amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I would like to respond to the comments of my friend from Nevada. He had five basic arguments. I think they could all be dispensed with fairly quickly.

His first argument is there are a lot of people who make money in this country, a lot of money, CEOs of businesses, sports figures, and others who receive very large salaries. He wondered if there is any difference between that and the tobacco lawyers who are billionaires because of the money they have made off the tobacco settlement. The answer is, yes, there is a huge difference. The CEOs and the sports figures are not fiduciaries. They are not in a trust relationship with the people who pay their salary. A sports figure, for example, uses a representative of the union and negotiates a fee with the baseball team, and they do pretty well. But it is all a contract negotiation.

If George Steinbrenner is willing to take any New York Yankee player, whatever he is willing to pay him, that is what he thinks he is worth, that is what he brings in the gate, that player is not taking advantage of George Steinbrenner or the New York Yankee fans based upon any fiduciary responsibility.

It is the same thing with respect to the boards of directors who set the salaries of CEOs of major corporations. What I quoted before from professors of law and others is that there is a special category of people who are in a fiduciary relationship. I know my friend from Nevada, as a good lawyer, knows this concept. Lawyers owe their clients a very special duty, a duty far and above what normal contract law is. You cannot take advantage of your client. Even if you can get your client to sign an agreement regarding fees, that agreement will be thrown out of court if the court determines it is unfair.

That doesn't apply with the rich CEOs or the rich sports figures, but it applies in the case, for example, of lawyers, of fiduciaries who are trustees of a trust.

That gets to the second argument—that this is unprecedented. No, it is not. I refer my colleague to section 4958 of the Tax Code. The section deals with an intermediate sanctions tax on fiduciaries, trustees who pay themselves too much money out of a trust. They are held to a standard of a reasonable fee. If they exceed that fee, they pay what? A 200-percent tax.

We got the idea from the Tax Code. We didn't make this up. It is not unprecedented. So our section follows that section; it is 4959. So 4958, existing law, says if you are a fiduciary, a trustee, and you charge your trust too much money for your salary so that the beneficiary is being hurt and it is unfair, then you are going to pay a 200-percent tax to the IRS unless, of course, you give the excessive part back and the tax is waived. That is the whole idea. We never collect the 200-percent tax because nobody is foolish enough to take

the money and pay twice as much back.

They just don't take the money in excess of what is fair. It is in the code and it applies to fiduciaries, people in this special trust relationship.

The third argument was that the tobacco settlement was good, and it is good. There were scholarships, and a lot of people benefited from it. What bothers me is the fact that lawyers benefited unreasonably from it—not all lawyers; a lot of tobacco lawyers did a lot of work and got paid a lot for it, but they put the work in. Others rode along on the work of others and charged far in excess of what any reasonable fee would be.

That gets to the next argument. My friend from Nevada talked about cases he took on a contingency fee, a one-third fee. He is correct. That is common for plaintiffs' lawyers. When they win, they get a third of the settlement. In many cases, that is a totally fair and reasonable fee. I know in the case of my colleague of Nevada, it was fair and reasonable because that is exactly the kind of person he is. If for some reason it would not have been, the court would not have allowed it because of this special fiduciary relationship with his clients. The court would not have allowed it if it exceeded that amount. I am sure—and I would not ask my colleague—that none of those fees topped $20,000 an hour. That is the amount we have set forth in this bill.

Again, these are not my words. I will quote a couple of people. John Coale, who is a big tobacco industry opponent in Washington, DC, denounced these fee awards as ''beyond human comprehension'' and stated that ''the work does not justify them.''

The president of the organization to which these lawyers belong, the Association of American Trial Lawyers, said:

> Common sense suggests that a $1 billion fee is excessive and unreasonable and certainly should invite the scrutiny [of the courts.]

The point is, a one-third contingency fee in a typical case is perfectly fine. But a one-third contingency fee in tobacco litigation—the kind of reward these lawyers are receiving—is totally unreasonable by any standard, including that of the president of the organization to which these few lawyers belong. These lawyers have already received about $4 billion in awards. None of that will be touched. They are going to get another $½ billion a year under the settlement.

All we are saying is that a reasonableness test has to apply, just as it does to other fiduciaries under the Tax Code. The excess refers to the Treasury so we can pay for things the Defense Department needs.

Another argument was this would interfere with private contracts. No, it doesn't. It has no applicability between lawyers and clients—none. All this applies to is this master settlement agreement that automatically pays out a $½ billion in fees per year to these lawyers. It doesn't apply retroactively; it only applies if and when the collection by the lawyer gets to the point that it represents more than $20,000 an hour. These lawyers can be paid until the cows come home at $19,999 an hour. But when the level finally gets to $20,000, we say that is enough. Just as the Tax Code today makes the trustee pay the rest of it back, we say the rest of it gets paid back. It doesn't hurt the plaintiffs at all. The plaintiffs have received what they are going to receive out of the settlement. It doesn't help the tobacco companies. They still have to pay the money. But the tax—in effect, the money the tobacco companies pay goes partially to the trial lawyers, and the rest goes to the U.S. Treasury, rather than all of it going to the trial lawyers. So the tobacco lawyers get paid what is fair—more than fair—and the plaintiffs have already received their reward. The tobacco companies still have to pay what they had to pay originally. The benefit is to the U.S. Treasury, Department of Defense, and the people we put in harm's way to carry out their missions.

The final argument made was one that I am not sure why it was made. My colleague acknowledged he knew this wasn't my motivation. Since I offered the amendment, it is unclear whose motivation therefore it would be—that it was a discriminatory tax policy to get at political enemies. This is what Nixon is alleged to have done. Of course, that is not the case here. I don't even know who these people are. I could not give you the name of one of them. I don't know how many there are. I don't know their politics or anything else. All I know is what others have said about them, which is that their fees are unconscionable, beyond human comprehension, that the work doesn't justify them, that the fees are excessive and unreasonable and should invite scrutiny, and so on and so on.

The question the law professor asked after going through the ethics rules about lawyers fees always having to be reasonable, the kind of fee contracts that my colleague from Nevada had with his clients—he goes through that and says fees cannot be clearly excessive. The fees have to be reasonable. Then he asked:

> Are these fees, which in many cases amount to effective hourly rates of return of tens of thousands—and even hundreds of thousands—of dollars an hour, reasonable? I think to ask the question is to answer it.

At the end of the day, the arguments raised against this amendment, frankly, are all fallacious. There is no relationship to CEOs or other people who make a lot of money. They don't have the same fiduciary relationship that a lawyer has to his client. A one-third contingency fee is a good thing. We all stipulate to that. But it still cannot be unreasonable.

In this case, the amounts are so egregious that they go far beyond what the Senator from Nevada was talking about. Unprecedented? No. It is in the Tax Code today—the same 200-percent tax, the same application to the fiduciaries who charge more than reasonable fees.

By the way, that also applies to another kind of fiduciaries—these particular tobacco lawyers. It would not interfere with other private contracts. By its terms, it doesn't apply to that.

I think the bottom line here is that we are faced with the same choice we had before. We have an opportunity to generate some funds to pay for the things our troops need. We are on the Defense authorization bill. We are trying to authorize a lot of programs. Eventually, we are going to have to appropriate money for them. This amendment provides additional funds of, by my calculation, something on the order of about $9 billion, that we can apply toward the acquisition of this important equipment and the other things needed in our Defense bill.

I suggest we need to give that stuff to our troops, that this is a way to pay for it, and that we have the added benefit of conforming our Tax Code to a situation here that is totally unreasonable and unconscionable, in the words of many, and that is that some of the tobacco lawyers are reaping a windfall.

Money that is paid by the tobacco companies instead would be paid to the Treasury because it is far in excess of what is a reasonable fee. We have said, OK, we will not limit it at $2,000. Some people said a reasonable fee might be more than that. We said, how about $10,000 an hour? No, that might be a reasonable fee someplace. We said $20,000. I have not found anybody who can come on this floor and say to me that a legal fee, even in this case, of $20,000 an hour for all of these hours of work is reasonable and will meet the laugh test or the reasonableness test, which is the test all lawyers must meet and the test of the IRS Code with respect to fiduciary duties in the trustee context.

It seems to me we have a great opportunity to help our troops. We are not hurting anybody by this amendment. I do not even think we can argue we are hurting these billionaire lawyers. I think it would be hard for them to spend all they have, and the little bit they are going to be denied here can do a whole lot more good in equipment in the hands of our troops. They cannot justify those fees coming to them in a prospective way under the settlement agreement they are taking advantage of today.

This is the amendment we will vote on first. I urge my colleagues to vote for it.

Then I urge my colleagues to vote against the underlying Lautenberg amendment. The easiest way to summarize the Lautenberg amendment—the Senator from New Jersey presented photographs and told some very disheartening stories of people who had been taken advantage of by other countries that harbor terrorists and that

the United States does not consider places where American companies should do business.

I totally agree with the Senator from New Jersey. We need to have a provision for sanctions in a case such as that. If it were not for the fact we already have one, I would be supportive of the Senator's amendment. But we do already have a provision. It is being applied by the President of the United States.

The point I tried to make earlier is that—and I am sure he did not mean to do it this way, but the language of the amendment of the Senator from New Jersey is even more restrictive than current law because it talks about ownership and control and defines it as at least 50 percent when, in fact, you can keep the ownership under the 50 percent and still have effective control of the corporation.

In the case of the application of sanctions the way the President does it, he takes into account both factors so that a company that keeps the ownership at that level, under 50 percent, is not at all exempt from the application of sanctions imposed by the President of the United States because we also take into account the element of control.

The Treasury Department and the State Department oppose the Lautenberg amendment because it restricts the President's authority in ways it is not restricted today.

If there are any situations in which we need to apply these sanctions to countries where they are not applied today, I am perfectly willing to discuss that with anybody and urge the administration to do so. We have the authority today. The President is utilizing it. It does not seem to me, therefore, that the amendment of the Senator from New Jersey should be supported.

I urge my colleagues to support the Kyl amendment, which will be voted on first, and oppose the Lautenberg amendment. That vote, I understand, will begin at 5:30 this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada, the Democratic whip.

Mr. REID. Mr. President, Senator LEVIN is in the Chamber. I asked that he allow me to speak again, which he indicated he will.

Mr. LEVIN. Mr. President, I am happy to yield time to the Senator from Nevada. I do not know if we have other speakers. How much time remains?

Mr. REID. There is 32 minutes left; is that right, Mr. President?

The PRESIDING OFFICER. That is correct.

Mr. KYL. Mr. President, will the Senator from Nevada yield for a question? Is there a division of time for both sides? Has the Chair announced how much time remains on both sides?

The PRESIDING OFFICER. There is 8 minutes remaining on the majority side; 31½ minutes on the minority side.

Mr. REID. Mr. President, a great book, certainly a classic, was written in 1776 by Adam Smith called ''The Wealth Of Nations.'' This was the first time it was put down on paper that someone understood, from an economist's point of view, what the free enterprise system was and could be, and that is the basis for our country, this free enterprise system we hear so much about, capitalism, free markets. That is, in effect, what this debate is all about.

It is about free markets; what people have the right to do and not do. We have given an illustration of baseball players and other court cases. The top 10 executives, as far as compensation in 2003, made about $14.6 million a month. That is what they made. I think my math is right. No, the top 10 executives made last year about $600 million. That is a whole lot of money, as we know. Is that too much money, more than half a billion dollars for the top 10 corporate executives in America to make?

As I said before, I think so, but what right do I have to go to Nevada businesspeople—take, for example, the MGM corporation. MGM corporation, the vast majority of stock is owned by one of my former clients, Kirk Kerkorian, a great businessman, a wonderful human being. I have no idea how much Kirk Kerkorian makes, but he does not pay himself much money. He drives a relatively small car. He has a few things that appear to be luxurious, but not too many. He pays his corporate executives lots of money. Why? Because they deserve it.

His No. 1 executive is a man by the name of Terry Lanny. Terry Lanny makes lots of money. According to the figures here, he did not make the top 10, but he is way up at the top. Why? Because the marketplace indicates that is what Terry Lanny is worth. It is no different than these lawyers. Terry Lanny has a contract. I have not seen it, but it calls for compensation today, next year, and I am sure years after that. If he left today, Kirk Kerkorian's company would keep paying him deferred compensation. That is what it is all about. That is what these lawyers have. We have no right to interfere.

We are talking about some law professor. I have the highest respect for law professors, but they are some of the most underpaid people in America, and I bet they are so jealous of people making money that they could hardly wait to run to tell somebody they are being paid too much. Windfall—anything to a law professor is a windfall. So I am not impressed with a law professor saying some lawyer is making too much money.

What I would like to say is that law professor should be out seeing how much money he can make, but I am not going to say that. What he is doing is second-guessing what the free market does.

I understand the examples my friend from Arizona has given, how he thinks my argument is distinctive from the facts, but I think it is pretty clear what I am talking about, the points I have made.

The example he has given with the fiduciary trust relationship is a totally different situation. The distinguished Presiding Officer is a lawyer who is certainly qualified to discuss legal matters, having been the attorney general of one of the most populated States in America. We know problems arise with people who have trust agreements. Many of them are not lawyers, and there has to be some control set because they do have a fiduciary relationship. Many of the people they represent are babes in the woods, so to speak, and there has to be some oversight there, and I agree with that. But I am not here to say corporate executives make too much money, or, I repeat, ballplayers make too much money, and lawyers make too much money. I think we should let the market control this situation.

I hope this Congress, which talks so much about our capitalistic form of Government, this Senate which talks about it, I hope they will put their votes where their mouths have been in the past.

I suggest the absence of a quorum and ask that the time run against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the distinguished Senator from Nevada, Mr. ENSIGN, be allowed to speak as in morning business and the time that he uses run equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nevada.

HONORING OUR ARMED FORCES

Mr. ENSIGN. Madam President, I rise to speak for a few minutes about the men and women in uniform who are serving this Nation in Iraq, Afghanistan, and around the world.

I know the recent news has focused on the actions of a few of our service men and women, but I rise today because they truly are the exception.

I want to thank the members of our armed services who continue to exhibit extraordinary bravery, integrity, and commitment. I want to remind them we are grateful for them each and every day as they defend our freedom and our security.

My State of Nevada is proud and blessed to have many sons and daughters among the ranks of those on the front lines of our war on terrorism, people such as Jon Carpenter. Jon Carpenter is a 42-year-old marine reservist on his second tour in Iraq. Back in Las Vegas he has a wife and five children, and a proud community.

Jon wrote a letter earlier this year to his friends and family explaining why he would return to Iraq with the First Marine Division.

I ask unanimous consent that the entire letter be printed in the RECORD.

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

Why is Jon going back to Iraq?

It is a question my wife and I have heard from quite a few people recently after announcing that I am getting orders to return to Iraq with the 1st Marine Division.

Some have asked with a quizzical tone, assuming that I had already done my duty for the country with my first trip to Iraq last spring.

Some have asked with expressed concern that I have a good wife, five good kids, a good church and a good job here at home that all need me, and that I should let the younger men and women run off to war and serve their country.

When people ask why I am going back to Iraq, I say ''Because the country has asked.''

Our country is at war, and even though the battlefields are different than those of WWII, the dangers of not winning this war are at least as great as those of our country's previous wars.

It is very easy to forget that we are at war, due to the level of prosperity we have here and the lack of terrorists attacks we have had since the beginning of this war on terror. But we are at war, and during times of war, men and women must make sacrifices.

I look at the sacrifices that our fellow countrymen have made during the world wars; and my previous deployments pale in comparison.

When people ask why I am going back to war, to fight on foreign soil, to prevent the war from being fought on our soil, endangering my family and friends, I say, ''Because I can.''

The next question is usually, ''What will Jon be doing there?''

I will be deployed with 1st Marine Division (Forward), when they go back to an area near Baghdad. I will be part of the Government Support Team, and assigned to the Police Training team, responsible for retraining the Iraqi Police to retake control of law enforcement functions and maintaining the peace.

The next question is usually ''How can we help you or your family?''

I usually say to pray regularly for my wife, family and I, and to be supportive of the President and his policies in Iraq. Both of these are extremely important, especially in light of the relentless attack on the President, during a time of war, by our country's own extremist citizens; i.e. the liberals and media elite who hate that another socialist country has fallen (Iraq), and that conservatives can take credit for the tremendous successes we have had in the war on terrorism.

From experience, I can tell you how demoralizing all of the criticism of the military and the dissension in the country is on the troops in Iraq. It also encourages the radical criminals and terrorists we are fighting over there to continue fighting in hopes we will pull out.

We are doing the right thing there, we are winning, and the majority of the Iraqi citizens truly appreciate what we are doing for them.

So, thank you for your past support and thank you for your future support of this next mission in Iraq.

Sincerely—Jon Carpenter.

Mr. ENSIGN. He states:

When people ask why I am going back to Iraq, I say, ''Because the country has asked.'' Our country is at war, and even though battlefields are different than those of WWI, the dangers of not winning this war are at least as great as those of our country's previous wars.

He continues on to write:

But we are at war, and during times of war, men and women must make sacrifices.

Jon was wounded a few weeks ago when he was shot through the neck. He has recovered now, pinned with a Purple Heart, has returned to his work training Iraqi police officers. Actually, he could not wait to get back to his fellow troops.

It is commendably common for our wounded troops to return to the front lines when given the option. That is because they are focused on the mission and determined to get the job done.

Army PFC Sean Freeman, Sparks, NV, is another example of a determined soldier. He was wounded in a June 22 ambush last year in Baghdad where he was stationed as an artillery crewman. Sean suffered back, shoulder, and arm wounds and is stationed in Germany while he recovers. He is motivated to do so, so he can return to Iraq.

The stories of bravery and heroism are truly inspiring and there is no shortage.

Dr. Thom Merry in Douglas County, NV, volunteered for duty in Iraq as a flight surgeon and has since been decorated with a Bronze Star for entering a minefield, without regard for his own personal safety, to rescue a severely injured marine.

TSgt William Kudzia, stationed at Nellis Air Force Base in Las Vegas, was engaged in ground operations against an opposing armed force in Iraq and hand-excavated 226,000 pounds of high explosive bombs buried by fleeing Iraqi forces.

With disregard for his own personal safety, he hand-removed a burning projectile, saving the lives of his team members and averting a catastrophic detonation. He was also awarded the Bronze Star with Valor.

As brave as our men and women are, I think there is an equal amount of emotional bravery exhibited by the spouses, parents, and children left behind to wait for their loved one's safe return. Nevada Highway Patrol Trooper SGT Jim Olschlager's son, James Jr., is on an aircraft carrier. His daughter Laurie is in the Army and will be sent to Iraq in September, and his son-in-law Kendall is currently serving in Karbala, near Baghdad.

In Fallon, NV, Juanita and Kevin Porteous got to visit with their son Jon for only a few days before his leave was cut short and he had to return to Iraq. I had looked forward to meeting and thanking Jon on a recent trip to Fallon, but was honored to deliver my appreciation via his parents. They are extremely proud of him, but that does not make the waiting or the worrying any easier.

My prayers are with the Olschlager and Porteous families and every other family which is anxiously awaiting the return of a loved one. We all thank them for the sacrifices they have made to keep this Nation safe. The men and women of our Armed Forces are truly defending our security. Our missions in Iraq and Afghanistan are critical to the continued ability to fight terrorism on foreign soil rather than on our shores.

Make no mistake about it, a war on our homeland would be devastating. That is why it is so important for us to continue steadfastly supporting our troops. Although we cherish our freedom of speech and the opportunity to debate, our united voice of support is essential if we want our troops to continue giving 110 percent to the mission.

It is easy to pretend what we as elected officials say is not heard by the men and women on the front lines, or for that matter by our enemies, but listen to what Jon Carpenter, the marine I talked about earlier, wrote before heading back to Iraq:

From experience, I can tell you how demoralizing all the criticism of the military and the dissension in the country is on the troops in Iraq. It also encourages the radical criminals and terrorists we are fighting over there to continue fighting in hopes we will pull out. We are doing the right thing there, we are winning, and the majority of the Iraqi citizens truly appreciate what we are doing for them.

God bless Jon Carpenter and all of the men and women who are willing to lay their lives down for this Nation. Our prayers are with you and your families. God bless America, truly the home of the brave.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. FEINGOLD. Mr. President, I want to express my unwavering support for the men and women who wear this country's uniform and who are so bravely serving in dangerous areas throughout the world on our behalf. I have strongly supported and will continue to strongly support efforts to ensure that these courageous men and women continue to receive all of the resources they need to perform their duties. This is a serious issue that deserves serious focus. It should not be a part of gimmickry or a political sideshow and for that reason I oppose the amendment offered by the Senator from Arizona, Mr. KYL.

Mrs. BOXER. Mr. President, Senator KYL has offered an amendment expressing the sense of the Senate that an excise tax should be imposed on any lawyer's contingency fees in tobacco cases when those fees exceed the equivalent of $20,000 per hour.

I oppose this amendment because it singles out only one group of people who will be subjected to a government-

imposed salary cap—lawyers who go after the tobacco companies.

The Kyl amendment does not apply to the CEO of Halliburton or Enron. It does not apply to the CEO of an HMO or a drug company. It does not even apply to lawyers who defend tobacco companies.

I would be happy to consider a fair and balanced amendment. But this one-sided amendment that goes after lawyers because they go after the tobacco companies should be defeated.

Mr. WARNER. Madam President, I understand the vote is set for 5:30.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I see the distinguished Senator from Alabama, and I yield the floor.

The PRESIDING OFFICER. Without objection, the Senator from Alabama is recognized.

Mr. LEVIN. Madam President, how much time is left on both sides?

The PRESIDING OFFICER. There is no time left on the majority side. There is 3½ minutes left on the minority side.

Mr. LEVIN. Madam President, is the Senator from Alabama speaking in opposition or in support of the amendment?

Mr. SHELBY. I am speaking in opposition to the Lautenberg amendment.

Mr. LEVIN. There is a chance Senator LAUTENBERG may be returning. If so, he would have wanted time. I have no problem agreeing to that.

Mr. SHELBY. Madam President, I ask unanimous consent for 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. If Senator LAUTENBERG wants to come, he can come.

Mr. LEVIN. We ask unanimous consent, if Senator LAUTENBERG does return after Senator SHELBY is finished, that Senator LAUTENBERG be recognized for 3 minutes immediately prior to the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Alabama.

Mr. SHELBY. Madam President, I rise in strong support of the motion to table the amendment of the Senator from New Jersey, Mr. LAUTENBERG.

As chairman of the Banking Committee which has jurisdiction over legislation pertaining to U.S. economic sanctions, I am more than a little familiar with the issue addressed by the amendment of the Senator from New Jersey. While his intent may be laudatory, the language of his amendment and the manner in which it has been proposed are not.

There is a reason all administrations oppose legislation such as this amendment. Not only do they argue that it infringes on their constitutional right to conduct foreign policy—an argument we admittedly employ or ignore as the need arises—but, more importantly, the White House invariably recognizes the potential for the law of unintended consequences to come into play. There has been no opportunity for those consequences to be considered in a truly deliberative manner because the legislation has not been brought before the Banking Committee for any type of hearing.

I take a backseat to no Member in this body in my support of strong economic sanctions as a vital tool in our foreign policy and national security arsenal, and I have been a strong advocate of closing loopholes that weaken those sanctions. My support for the Helms-Burton legislation was a case in point.

In addition, as one of the few Members of the Senate who opposes weakening the Government's ability to prevent the flow of military-sensitive technologies to countries with poor records in the areas of proliferation and support for terrorists, I believe my credentials in this area are quite strong.

The intent, as I understand it, behind the amendment of the Senator from New Jersey is certainly meritorious. We all support the war against terrorism and the need to staunch the flow of dollars to terrorist organizations. Under my chairmanship, the Banking Committee has been investigating the issue of terrorist financing for over a year, and has additional hearings scheduled on the subject in the weeks ahead.

We are taking this issue very seriously. We are examining the structure of the Federal Government to stem the flow of dollars to terrorist organizations. We work very closely with the Treasury Department Office of Foreign Assets and Control which is the Government's vehicle for enforcing U.S. economic sanctions to further prevent these organizations from gaining access to sources of revenue with which to fund their operation. OFAC, the Federal office responsible for enforcing sanctions, opposes the Lautenberg legislation.

I stand ready to work with the Senator from New Jersey to ensure U.S. economic sanctions have the requisite team to accomplish the objective for which they are imposed. But this amendment is not the way to go.

I urge my colleagues to support the motion to table.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. REID. I ask unanimous consent that after we vote on the Kyl amendment, there be 4 minutes equally divided prior to the vote on the Lautenberg amendment.

Mr. WARNER. Reserving the right to object, I will not object, but that does not preclude a motion to table.

Mr. REID. That is right.

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

The question is on agreeing to the amendment offered by Senator KYL, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 37, nays 62, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—37

Alexander	Enzi	Murkowski
Allard	Fitzgerald	Nickles
Bond	Frist	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Snowe
Campbell	Hutchison	Stevens
Cochran	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lugar	Thomas
Dole	McCain	Warner
Domenici	McConnell	
Ensign	Miller	

NAYS—62

Akaka	Dayton	Levin
Allen	DeWine	Lieberman
Baucus	Dodd	Lincoln
Bayh	Dorgan	Lott
Bennett	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Graham (FL)	Pryor
Byrd	Graham (SC)	Reed
Cantwell	Harkin	Reid
Carper	Hatch	Rockefeller
Chafee	Hollings	Sarbanes
Chambliss	Inouye	Schumer
Clinton	Jeffords	Shelby
Coleman	Johnson	Smith
Collins	Kennedy	Specter
Conrad	Kohl	Stabenow
Corzine	Landrieu	Voinovich
Crapo	Lautenberg	Wyden
Daschle	Leahy	

NOT VOTING—1

Kerry

The amendment (No. 3191) was rejected.

The PRESIDING OFFICER. The Senator from Idaho.

CHANGE OF VOTE

Mr. CRAPO. On rollcall vote 100, I voted ''yea.'' It was my intention to vote ''nay.'' Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

The Senator from Maine.

Ms. COLLINS. Mr. President, on rollcall vote 100, I voted ''aye.'' It was my intention to vote ''nay.'' Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. HOLLINGS. Madam President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3151

Mr. WARNER. Parliamentary inquiry, Madam President: Is not the Lautenberg amendment the pending amendment?

The PRESIDING OFFICER. There are 4 minutes equally divided prior to the vote on the amendment.

Who yields time?

Mr. LEVIN. I think Senator LAUTENBERG has 2 minutes, and Senator KYL has 2 minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask my colleagues please to permit us to have order in the Senate. We don't have much time to talk about this. I would appreciate the opportunity to speak.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senate will be in order.

Mr. LAUTENBERG. Mr. President, please try to help us maintain order.

This is very quick, very simple. My amendment is straightforward. Current sanctions law has a loophole that permits foreign subsidiaries of U.S. companies to do business with nations that sponsor terrorism, such as Iraq. My amendment closes the loophole. It is that simple. It only applies to foreign subsidiaries in which U.S. parent companies have a majority interest.

The question is, do we want U.S. companies to sell oilfield equipment through a sham foreign subsidiary to a country such as Iran—which the President has rightly called the axis of evil—so Iran can sell its oil at greater profits and funnel those profits to Hezbollah, Hamas, or Islamic Jihad, terrorist groups that killed 240 marines in Beirut, Lebanon.

These two young women in this photo, from New Jersey and New Hampshire, were killed in Israel by terrorist activities sponsored by Iran. It is very simple. The amendment says: Are you with us or against us? If you are with us and want them to stop killing our kids in Iraq, then you have to stand up and say, yes, this amendment counts, and, yes, we want to close this loophole. We just had a vote relating somewhat to my amendment. I hope my colleagues will stand up and say close the door.

I thank the Chair.

Mr. WARNER. Mr. President, I yield our time to Senator KYL.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, the State Department and Treasury Department strongly oppose this amendment because it is more restrictive than the current authority exercised by the President under IEEPA. The amendment would focus solely on ownership, which is a standard that can easily be circumvented and would be less effective than the administration's approach, which applies not only to ownership but also to control.

It is very easy for a company to get just under 50-percent ownership but still control the subsidiary. Under the Senator's amendment, no sanction would be permitted in that circumstance. So rather than broadening the authority and making it more capable of adding sanctions to what we already have, it would actually restrict the authority the President currently has.

That is why both Treasury and the State Department say let the President exert the current authority he has, which is broader. It is not a choice between helping people such as the Senator alluded to. This President is applying sanctions in those countries precisely where this condition exists.

I urge my colleagues to vote against the Lautenberg amendment and don't weaken the provisions already existing. Allow the President the flexibility he needs.

Mr. WARNER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—49

Akaka	Durbin	Lincoln
Bayh	Edwards	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham (FL)	Nelson (NE)
Breaux	Harkin	Pryor
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carper	Jeffords	Rockefeller
Clinton	Johnson	Sarbanes
Collins	Kennedy	Schumer
Conrad	Kohl	Snowe
Corzine	Landrieu	Specter
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Wyden
Dodd	Levin	
Dorgan	Lieberman	

NAYS—50

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Miller
Baucus	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Gregg	Smith
Chafee	Hagel	Stevens
Chambliss	Hatch	Sununu
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Cornyn	Kyl	Voinovich
Craig	Lott	Warner
Crapo	Lugar	

NOT VOTING—1

Kerry

The amendment (No. 3151) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, several colleagues are anxious to address the Chair, so I yield the floor momentarily.

Mr. LAUTENBERG. Mr. President, I just want to say I thank my colleagues who worked so hard to get this legislation passed. But I want everybody to remember that this vote that was just taken said it is all right to do business with Iran. Look at the list of the dead and missing and see whether it is all right to vote for companies that sell to Iran. When we had a chance to close the loophole, the party lines were clear. No, stick with the companies. Forget about those who are serving in Iraq. Forget about those kids who want to come home in one piece. That is the kind of vote that just took place, and I hope the constituents back home will note it and remember it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the distinguished Senator from Michigan, the ranking member on the committee, Mr. LEVIN, and I will momentarily process a number of agreed-upon amendments. So at this time, seeing no Senator seeking recognition, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. WARNER. Mr. President, as is the practice with my distinguished colleague, Mr. LEVIN, we have arrived at an agreement on a series of amendments. I would like at this point in time to proceed with perhaps a dozen or so.

AMENDMENT NO. 3205

Mr. LEVIN. Mr. President, I send an amendment to the desk.

the PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. LEVIN, proposes an amendment numbered 3205.

The amendment is as follows:

(Purpose: To correct the characterization of the funding authority for up-armored high mobility multi-purpose wheeled vehicles and wheeled vehicle ballistic add-on armor protection)

On page 18, strike line 11, strike "**AUTHORIZATION OF APPROPRIATIONS FORK**".

On page 18, strike lines 15 through 24, and insert the following:

(a) AMOUNT.—Of the amount authorized to be appropriated for the Army for fiscal year 2005 for other procurement under section 101(5), $610,000,000 shall be available for both of the purposes described in subsection (b) and may be used for either or both of such purposes.

(b) PURPOSES.—The purposes referred to in subsection (a) are as follows:

On page 19, beginning on line 7, strike ''authorized to be appropriated in'' and insert ''available under''.

On page 19, line 17, strike ''authorized to be appropriated'' and insert ''available under''.

Mr. WARNER. Mr. President, this is a technical amendment which has been cleared by both sides.

Am I correct?

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 3205) was agreed to.

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

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3206

Mr. WARNER. Mr. President, I offer an amendment that makes a technical correction. The amendment has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3206.

The amendment is as follows:

(Purpose: To correct a funding discrepancy)

On page 25, line 25, strike ''$9,698,958,000'' and insert ''$9,686,958,000''.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3206) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3207

Mr. WARNER. I offer an amendment to make a technical correction related to military construction.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3207.

The amendment is as follows:

(Purpose: To make a technical correction relating to military construction)

On page 318, line 2, strike ''$980,557,000'' and insert ''$1,062,463,000''.

Mr. LEVIN. That has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3207) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3208

Mr. WARNER. Mr. President, on behalf of myself and Senator LEVIN, I offer an amendment to make a technical change in title 10, to conform with actions taken in last year's bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia, [Mr. WARNER], for himself and Mr. LEVIN, proposes an amendment numbered 3208.

The amendment is as follows:

(Purpose: To make a technical correction to a cross reference in title 10, United States Code)

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. TECHNICAL CORRECTION TO REFERENCE TO CERTAIN ANNUAL REPORTS.

Section 2474(f)(2) of title 10, United States Code, is amended by striking ''section 2466(e)'' and inserting ''section 2466(d)''.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3208) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3209

Mr. WARNER. Mr. President, I offer an amendment for myself and Senator LEVIN to authorize the Secretary of Defense to continue home health benefits for covered beneficiaries as the Department implements legislative changes to home health services enacted in fiscal year 2002.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. LEVIN, proposes an amendment numbered 3209.

The amendment is as follows:

(Purpose: To provide for continuation of part-time or intermittent home health care benefits during transition to the sub-acute care program)

At the end of title VII, add the following:

SEC. . CONTINUATION OF SUB-ACUTE CARE FOR TRANSITION PERIOD.

Section 1074j(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4) The Secretary of Defense may take such actions as are necessary to ensure that there is an effective transition in the furnishing of part-time or intermittent home health care benefits for covered beneficiaries who were receiving such benefits before the establishment of the program under this section. The actions taken under this paragraph may include the continuation of such benefits on an extended basis for such time as the Secretary determines appropriate.''.

Mr. LEVIN. It has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3209) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3210

Mr. WARNER. I offer an amendment for myself and Mr. LEVIN that will provide temporary authority to the Secretary of Defense to waive collection of TRICARE payments made on behalf of certain individuals who were unaware of the requirement to obtain Part B coinsurance under Medicare in order to remain eligible for TRICARE actions underway by the Centers for Medicare and Medicaid Services to offer a new enrollment period for those individuals as a remedy to this matter.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. LEVIN, proposes an amendment numbered 3210. The amendment is as follows:

(Purpose: To provide temporary authority for waiver of collection of payments due for CHAMPUS benefits received by disabled persons unaware of loss of CHAMPUS eligibility and continuation of such benefits)

At the end of subtitle B of title VII, insert the following:

SEC. 717. TEMPORARY AUTHORITY FOR WAIVER OF COLLECTION OF PAYMENTS DUE FOR CHAMPUS BENEFITS RECEIVED BY DISABLED PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) AUTHORITY TO WAIVE DEBT.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, may waive (in whole or in part) the collection of payments otherwise due from a person described in subsection (b) for health benefits received by such person under section 1086 of title 10, United States Code, after the termination of that person's eligibility for such benefits.

(2) If the Secretary of Defense waives collection of payments from a person under paragraph (1), the Secretary may also authorize a continuation of benefits for such person under such section 1086 for a period ending not later than the end of the period specified in subsection (c) of this section.

(b) ELIGIBLE PERSONS.—A person is eligible for relief under subsection (a)(1) if—

(1) the person is described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) except for such paragraph, the person would have been eligible for the health benefits under such section; and

(3) at the time of the receipt of such benefits—

(A) the person satisfied the criteria specified in paragraph (2)(B) of such subsection (d); and

(B) the person was unaware of the loss of eligibility to receive the health benefits.

(c) PERIOD OF APPLICABILITY.—The authority provided under this section to waive collection of payments and to continue benefits shall apply, under terms and conditions prescribed by the Secretary of Defense, to health benefits provided under section 1086 of title 10, United States Code, during the period beginning on July 1, 1999, and ending at the end of December 31, 2004.

(d) CONSULTATION WITH OTHER ADMINISTERING SECRETARIES.—(1) The Secretary of Defense shall consult with the other administering Secretaries in exercising the authority provided in this section.

(2) In this subsection, the term ''administering Secretaries'' has the meaning given such term in section 1072(3) of title 10, United States Code.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3210) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3211

Mr. WARNER. Mr. President, on behalf of Senator ALLARD, I offer an amendment which clarifies that local stakeholder organizations working in cooperation with the Department of Energy after closure of environmental management sites will be made up of local elected officials and their designees.

This amendment, I believe, has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. ALLARD, proposes an amendment numbered 3211.

The amendment is as follows:

(Purpose: To improve section 3120, relating to local stakeholder organizations for Department of Energy Environmental Management 2006 closure sites)

Strike section 3120 and insert the following:

SEC. 3120. LOCAL STAKEHOLDER ORGANIZATIONS FOR DEPARTMENT OF ENERGY ENVIRONMENTAL MANAGEMENT 2006 CLOSURE SITES.

(a) ESTABLISHMENT.—(1) The Secretary of Energy shall establish for each Department of Energy Environmental Management 2006 closure site a local stakeholder organization having the responsibilities set forth in subsection (c).

(2) The local stakeholder organization shall be established in consultation with interested elected officials of local governments in the vicinity of the closure site concerned.

(b) COMPOSITION.—A local stakeholder organization for a Department of Energy Environmental Management 2006 closure site under subsection (a) shall be composed of such elected officials of local governments in the vicinity of the closure site concerned as the Secretary considers appropriate to carry out the responsibilities set forth in subsection (c) who agree to serve on the organization, or the designees of such officials.

(c) RESPONSIBILITIES.—A local stakeholder organization for a Department of Energy Environmental Management 2006 closure site under subsection (a) shall—

(1) solicit and encourage public participation in appropriate activities relating to the closure and post-closure operations of the site;

(2) disseminate information on the closure and post-closure operations of the site to the State government of the State in which the site is located, local and Tribal governments in the vicinity of the site, and persons and entities having a stake in the closure or post-closure operations of the site;

(3) transmit to appropriate officers and employees of the Department of Energy questions and concerns of governments, persons, and entities referred to paragraph (2) on the closure and post-closure operations of the site; and

(4) perform such other duties as the Secretary and the local stakeholder organization jointly determine appropriate to assist the Secretary in meeting post-closure obligations of the Department at the site.

(d) DEADLINE FOR ESTABLISHMENT.—The local stakeholder organization for a Department of Energy Environmental Management 2006 closure site shall be established not later than six months before the closure of the site.

(e) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to local stakeholder organizations under this section.

(f) DEPARTMENT OF ENERGY ENVIRONMENTAL MANAGEMENT 2006 CLOSURE SITE DEFINED.—In this section, the term ''Department of Energy Environmental Management 2006 closure site'' means each clean up site of the Department of Energy scheduled by the Department as of January 1, 2004, for closure in 2006.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3211) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3212

Mr. LEVIN. On behalf of Senator BYRD, I offer an amendment which would require the Secretary of Defense to increase the size of the acquisition workforce to address the huge management challenges that we face in this area.

I believe this amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BYRD, proposes an amendment numbered 3212.

The amendment is as follows:

(Purpose: To require an increase in the size of the defense acquisition and support workforce during fiscal years 2005, 2006, and 2007)

On page 177, strike lines 14 through 24, and insert the following:

(b) INCREASE AND REALIGNMENT OF WORKFORCE.—(1)(A) During fiscal years 2005, 2006, and 2007, the Secretary of Defense shall increase the number of persons employed in the defense acquisition and support workforce as follows:

(i) During fiscal year 2005, to 105 percent of the baseline number (as defined in subparagraph (B)).

(ii) During fiscal year 2006, to 110 percent of the baseline number.

(iii) During fiscal year 2007, to 115 percent of the baseline number.

(B) In this paragraph, the term ''baseline number'', with respect to persons employed in the defense acquisition and support workforce, means the number of persons employed in such workforce as of September 30, 2003 (determined on the basis of full-time employee equivalence).

(C) The Secretary of Defense may waive a requirement in subparagraph (A) and, subject to subsection (a), employ in the defense acquisition and support workforce a lesser number of employees if the Secretary determines and certifies to the congressional defense committees that the cost of increasing such workforce to the larger size as required under that subparagraph would exceed the savings to be derived from the additional oversight that would be achieved by having a defense acquisition and support workforce of such larger size.

(2) During fiscal years 2005, 2006, and 2007, the Secretary of Defense may realign any part of the defense acquisition and support workforce to support reinvestment in other, higher priority positions in such workforce.

Mr. BYRD. Mr. President, it's difficult to imagine a subject that is more obscure and more arcane than the federal procurement process. At times, it seems as though an impenetrable fog hangs over government contractors, clouding the process by which taxpayer funds are awarded and spent.

Nowhere is the issue of federal procurement more clouded, more obscured from public scrutiny than in the Defense Department.

What little information makes it into the mainstream media usually reinforces the worst cliches about government waste. The stories are familiar. We have all heard them. They are a grotesque litany of negligence and greed.

We read that the Pentagon has awarded billions of dollars to a contractor to produce a new supersonic stealth fighter. Twenty aircraft come off the production line and hundreds more are planned—only then do we find out that nobody has tested the new fighter to see if it actually works.

We read of how a contractor has charged the Federal Government for products and services never provided, and then of how the government must engage in lengthy, costly efforts to get the taxpayers' money back.

And then there is the over-billing.

We read about Defense Department officials who must wrestle with contractors over inflated pricing of spare parts. A disputed bill for airplane parts in 1999 includes: $2,522 for a 4½-inch metal sleeve, $744 for a washer, $714 for a rivet, and $5,217 for a 1-inch metal bracket.

Whatever the excuses—and I am sure there are legions of them—it is unfathomable to me that, year after year, administration after administration, our Government continues to endure the waste of billions and billions of taxpayer dollars on incompetent and negligent defense contractors who continually fail to deliver products and services on time and at a cost commensurate with what they promised.

Even with our troops overseas in Iraq—where, in too many cases, some of their most basic needs for armor and food are going unaddressed—the Defense Department continues to tolerate enormous waste from its contractors. Not enough questions asked, not enough accountability required.

In March, the new inspector general of the U.S.-led authority in Iraq, with

colossal understatement, identified ''improper procedures and limited competition'' as ''issues of concern'' with regard to contractors in Iraq.

The Inspector General reported only 20 percent of the 1,500 contracts awarded last fiscal year—about $2 billion of the $10 billion in taxpayer funds awarded to defense contractors in Iraq—has been awarded through full and open competition.

The Inspector General noted that the Defense Contract Audit Agency has issued more than 187 audit reports related to nearly $7 billion in reconstruction work. These audits have found $133 million in questionable costs and $307 million in unsupported costs and have led to $176.5 million in suspended billings.

The Inspector General reported that the Defense Criminal Investigative Service has opened four bribery and corruption cases, four theft cases, two false claims cases, three weapons recovery cases, four counterfeit cases, and one conflict of interest case.

The Inspector General's report is the tip of an enormous and largely hidden iceberg. The Defense Department's contract oversight system is a sloppy, incomprehensible mess, and it has left the Defense Department with the unfortunate reputation of ignoring contractor rip-offs.

Procurement managers must be held accountable. Agency heads must be held accountable. Contracting officers must be held accountable. And, yet, they are not. The abuse and waste of the taxpayers' dollars is somehow allowed to continue.

The problem is attributable, in part, to the draconian staff cuts in the federal acquisition workforce. These are the civil servants who analyze proposed prices on bids, who keep tabs on cost overruns, who commit contractual fine print to memory so they can make sure requirements and standards are met. Since 1989, the number of these civil servants has been cut in half—one of the most dramatic reductions in the entire federal workforce since the end of the cold war.

Meanwhile, as procurement and contract oversight staffs have been shrinking, Defense's contracting activity has soared. It is now routine for the Pentagon to award multi-billion dollar contracts for logistics support for an entire weapon system or a host of support services for U.S. troops deployed in an overseas operation. These are the contracts the American public reads about most in the newspapers, where companies are alleged to have overcharged the taxpayers for fuel and meals supplied to U.S. troops in Iraq.

The Pentagon's Inspector General has rightly urged more vigilance by Defense auditors. But the Defense Department hasn't the staff or the resources to do it. Understaffed auditing agencies must pick and choose where to focus their resources. Likewise, the Congress remains woefully unprepared to oversee how taxpayer funds are being spent on defense contracts in Iraq and elsewhere. Congressional committees, along with the Defense Contract Audit Agency, the Inspector Generals' offices, and the Justice Department, do catch abuses, but not all of them.

All of this makes it increasingly tempting for companies to inflate their prices and to hide the real costs behind impenetrable contractual jargon.

Contractors have no incentive to contain costs. The more a contractor bills, the more money the contractor makes.

This is the dark side of acquisition. For all of the benefits and contributions provided by defense contractors—and there have been many contributions over the years—the lack of oversight makes it impossible for any Member of Congress to vote for additional defense dollars and honestly tell their constituents that those taxpayer funds will be well spent.

Every acquisition dollar frittered away on negligent contractors is one less taxpayer dollar available to support our troops. It is one more dollar that will be taken from our domestic needs here at home.

The American people should demand more from their Congress. They should demand better from their President.

We are asking men and women to make the ultimate sacrifice in Iraq and around the world. The food that nourishes them and the armor that shields them should not provide a blank check for avarice and imprudence.

I intend to offer an amendment that would require the Secretary of Defense to increase the size of the Pentagon's acquisition workforce. Under my amendment, the Secretary of Defense would be allowed to waive this required increase, but only if the Secretary can certify to the Congress that such an increase in the workforce would not yield sufficient savings to offset the cost of the additional personnel.

I recognize that the scope of the problems with the Pentagon's procurement system is larger than this amendment.

Gross waste, negligent oversight, and rampant abuse are embedded deep within our federal procurement system.

The procurement abuses that have been widely reported in Iraq—the allegations of favoritism, the lack of oversight, the fraudulent charges, the rampant waste—are common to other departments and agencies of the federal government.

Recently, far too much of the contracting debate has focused on individual agencies or individual contracts being negotiated by the administration. Many of them are important, but we also need to look at the bigger picture of what is wrong with the overall procurement process.

What is needed are comprehensive hearings by the Committees with jurisdiction, primarily the Senate Governmental Affairs and the Armed Services Committees, to identify the most serious problems and to make recommendations to fix them. Extensive hearings are needed not only to educate the Congress, but also the American public about the waste in the procurement system and the statutory changes needed to address them.

Comprehensive legislation should be reported to the full Senate, which should take the time necessary to debate the bill and to consider amendments.

It will require an enormous effort. It will require skilled legislators with an adroit understanding of the issues. At the end of the day, the procurement system should be transparent and open to public scrutiny and understanding it. In the meantime, I offer my amendment to help the administration better oversee the defense contractors it employs.

Each year, the Congress appropriates billions of taxpayer dollars to federal agencies to pay federal contractors with little means of ever fully accounting for how those funds are spent. Staff must be properly trained. Resources must be provided. Contractors must be held accountable to make sure they do their job right.

This is a common sense approach to a problem that has been ignored for far too long.

I urge the adoption of my amendment.

Mr. WARNER. The amendment has support on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3212) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3169

Mr. WARNER. On behalf of Senators DOMENICI and BINGAMAN, I offer an amendment which clarifies how the Department of Energy, working with the contractor for the Los Alamos National Laboratory, will provide support for the Los Alamos public schools.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DOMENICI and Mr. BINGAMAN, proposes an amendment numbered 3169.

The amendment is as follows:

(Purpose: To provide a substitute for section 3144, relating to support for public education in the vicinity of Los Alamos National Laboratory, New Mexico)

Strike section 3144 and insert the following:

SEC. 3144. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

The Secretary of Energy shall require that the primary management and operations contract for Los Alamos National Laboratory, New Mexico, that involves Laboratory operations after September 30, 2005, shall contain terms requiring the contractor

under such contract to provide support to the Los Alamos Public School District, New Mexico, for the elementary and secondary education of students by the School District in the amount of $8,000,000 in each fiscal year.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3169) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3213

Mr. LEVIN. I offer an amendment requested by Mr. REED of Rhode Island as a technical clarification to section 1005 of S. 2400 to clarify the types of recreational programs that can be supported by this section.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. REED, proposes an amendment numbered 3213.

The amendment is as follows:

(Purpose: To clarify the programs of the service academies that may be subject to uniform funding and management)

Strike section 1005, and insert the following:

SEC. 1005. UNIFORM FUNDING AND MANAGEMENT OF SERVICE ACADEMY ATHLETIC AND RECREATIONAL EXTRACURRICULAR PROGRAMS.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4359. Athletic and recreational extracurricular programs: uniform funding

''The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Academy that—

''(1) is not considered a morale, welfare, or recreation program referred to in such section;

''(2) is funded out of appropriated funds;

''(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

''(4) is not operated as a private organization.''.

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

''4359. Athletic and recreational extracurricular programs: uniform funding.''.

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6978. Athletic and recreational extracurricular programs: uniform funding

''The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Naval Academy that—

''(1) is not considered a morale, welfare, or recreation program referred to in such section;

''(2) is funded out of appropriated funds;

''(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

''(4) is not operated as a private organization.''.

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

''6978. Athletic and recreational extracurricular programs: uniform funding.''.

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9358. Athletic and recreational extracurricular programs: uniform funding

''The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Academy that—

''(1) is not considered a morale, welfare, or recreation program referred to in such section;

''(2) is funded out of appropriated funds;

''(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

''(4) is not operated as a private organization.''.

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

''9358. Athletic and recreational extracurricular programs: uniform funding.''.

(d) EFFECTIVE DATE AND APPLICABILITY.—This section and the amendments made by this section shall take effect on October 1, 2004, and shall apply with respect to funds appropriated for fiscal years beginning on or after such date.

Mr. WARNER. It has been cleared on this side. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3213) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3214

Mr. WARNER. I offer an amendment on behalf of Senator SESSIONS to authorize the Secretary of the Air Force to authorize the exchange of land at Maxwell Air Force Base, Alabama.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SESSIONS, propose an amendment numbered 3214.

The amendment is as follows:

(Purpose: To authorize the exchange of land at Maxwell Air Force Base, Alabama)

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. LAND EXCHANGE, MAXWELL AIR FORCE BASE, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the City of Montgomery, Alabama (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately ____ acres and including all of the Maxwell Heights Housing site and located at Maxwell Air Force Base, Alabama.

(b) CONSIDERATION.—(1) As consideration for the conveyance of property under subsection (a), the City shall convey to the United States all right, title, and interest of the City to a parcel of real property, including any improvements thereon, consisting of approximately 35 acres and designated as project AL 6–4, that is owned by the City and is contiguous to Maxwell Air Force Base, for the purpose of allowing the Secretary to incorporate such property into a project for the acquisition or improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code. The Secretary shall have administrative jurisdiction over the real property received under this subsection.

(2) If the fair market value of the real property received under paragraph (1) is less than the fair market value of the real property conveyed under subsection (a) (as determined pursuant to an appraisal acceptable to the Secretary), the Secretary may require the City to provide, pursuant to negotiations between the Secretary and the City, in-kind consideration the value of which when added to the fair market value of the property conveyed under subsection (b) equals the fair market value of the property conveyed under subsection (a).

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under subsections (a) and (b), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyances. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3214) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3215

Mr. LEVIN. On behalf of Senators SARBANES and MIKULSKI, I offer an amendment that would authorize a land exchange between the Navy and the State of Maryland at Patuxent River Naval Air Station.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. SARBANES, for himself and Ms. MIKULSKI, proposes an amendment numbered 3215.

The amendment is as follows:

(Purpose: To authorize a land conveyance, Naval Air Station, Patuxent River, Maryland)

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

SEC. 2830. LAND EXCHANGE, NAVAL AIR STATION, PATUXENT RIVER, MARYLAND.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the State of Maryland (in this section referred to as ''State''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately five acres at Naval Air Station, Patuxent River, Maryland, and containing the Point Lookout Lighthouse, other structures related to the lighthouse, and an archaeological site pertaining to the military hospital that was located on the property during the Civil War. The conveyance shall include artifacts pertaining to the military hospital recovered by the Navy and held at the installation.

(b) PROPERTY RECEIVED IN EXCHANGE.—As consideration for the conveyance of the real property under subsection (a), the State shall convey to the United States a parcel of real property consisting of approximately five acres located in Point Lookout State Park, St. Mary's County, Maryland.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT 3215

Mr. SARBANES. Mr. President, this amendment would authorize a land exchange between the State of Maryland and the Naval Air Station, Patuxent River.

Specifically, the amendment directs the Secretary of the Navy to convey approximately 5 acres, including the Point Lookout Lighthouse and related facilities, as well as an archaeological site and recovered artifacts pertaining to the military hospital located on the property during the Civil War. In exchange, the State of Maryland would transfer a similar parcel to the Navy for the location of the new tracking station.

At present, the Navy's Range Theodolite Tracking System is located on an historic parcel at the edge of Point Lookout State Park in St. Mary's County, Maryland. Navy Range Operations operates and maintains support facilities in historically significant structures formerly associated with the operation Point Lookout Lighthouse. These facilities, which date to the 19th century, now house radio relay, range surveillance radar, and a Remote Emitter System, all of which are controlled at Cedar Point via fiber optic link. Over the years, the facilities have deteriorated and can no longer meet the critical needs of the Navy.

This amendment has the support of both the Navy and the State of Maryland. In fact, last year, the State made available $450,000 for the preservation and restoration of the lighthouse so that it might be incorporated into the park and open for public use.

In my view, this amendment represents a real win-win for both the Navy and the people of the State of Maryland. This transfer will ultimately result in overall cost-savings for the Navy—and the preservation of the structures and the historic site.

I am pleased that Senator MIKULSKI has joined me in cosponsoring the amendment. I urge my colleagues to join us in supporting its adoption.

Mr. WARNER. We accept on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3215) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3165

Mr. WARNER. This is our final amendment. I offer an amendment on behalf of Senator COLEMAN, which would direct the Secretary of Defense to carry out a study on feasibility of the use of Camp Ripley National Guard Training Center in Minnesota as a mobilization station for Reserve components ordered to active duty.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. COLEMAN, proposes an amendment numbered 3165.

The amendment is as follows:

(Purpose: To require a study of establishment of mobilization station at Camp Ripley National Guard Training Center, Little Falls, Minnesota)

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. STUDY OF ESTABLISHMENT OF MOBILIZATION STATION AT CAMP RIPLEY NATIONAL GUARD TRAINING CENTER, LITTLE FALLS, MINNESOTA.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall carry out and complete a study on the feasibility of the use of Camp Ripley National Guard Training Center, Little Falls, Minnesota, as a mobilization station for reserve components ordered to active duty under provisions of law referred to in section 101(a)(13)(B) of title 10, United States Code. The study shall include consideration of the actions necessary to establish such center as a mobilization station.

Mr. LEVIN. The amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3165) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT 3158

Ms. SNOWE. Mr. President, I rise today to speak in support of the amendment offered by Senators DORGAN, LOTT, FEINSTEIN and myself to refocus the provisions in the Fiscal Year 2002 Defense Authorization Bill that authorizes a base closure round in 2005 from our domestic installations to our overseas military infrastructure. I do so because I am firmly convinced that today, in this unprecedented era of our global war on terrorism, as we continue operations in Afghanistan to root out the seeds of terror, as we are engaged in ensuring a free Iraq in the heart of the Middle East, it makes no sense to consider closing nearly a quarter of our domestic military infrastructure in addition to the 21 percent already lost over the past 15 years here in America.

I arrive at this debate as a veteran of a number of issues key to our deliberations. First, I have been all too intimately acquainted with every base closure round since the first in 1988 as well as the accompanying pitfalls, failures and foibles of each—and believe me, there were many. Second, with 12 years as ranking member of the House Foreign Affairs International Operations Subcommittee, as chair of the subcommittee's Senate counterpart, as a former member of the Senate Armed Services Committee and former chair of the Seapower Subcommittee, I cannot and will not ignore the pattern I have discerned of a failure to ''connect'' critical ''dots'' in the past—and the implications of these shortfalls for our ability to project into the future.

For starters, having fought battle after battle after battle to preserve the former Loring Air Force Base in Maine, only to have criteria changed and added literally at the 11th hour, you can feel free to label me a ''skeptic'' when it comes to the integrity of the process. In fact, we had not one but two Air Force generals defending Loring

before the BRAC Commission but in a fundamental breach of confidence in the process, when they could not counter our strategic arguments for Loring, it was a brand new factor—so-called ''quality of life''—that tipped the scales against strategic location and military value at the very last moment when the Air Force claimed its facilities were ''well below average'' despite the fact that $300 million had been spent there over a 10 year period to replace or upgrade nearly everything on the base.

To date, 49 bases in the Northeast alone have been lost to BRAC while the region—closest to Europe of anywhere in the United States I might add—has already suffered about a 50 percent reduction in infrastructure under BRAC. And now further cuts are being discussed, when it was the northeast that suffered the worst attack ever on American soil? When 18 percent of America's population lives in that region? And when we know the Department of Homeland Security is not going to be building any bases—should we be considering closing the very military facilities that are required to protect the Nation?

The fact is, once our critical bases are lost, they are lost forever. In that light, given the transformational times in which we live, given the requirement to make fiscal year 2005 BRAC projections 20 years into the future, while the track record of 6 year projections in the past has been so poor, as I will illustrate, given these projections will be the foundation upon which all infrastructure assessments will be built, and given that I have never been convinced of the alleged cost savings resulting from BRAC—an underpinning of the effort to even have a BRAC process in the first place—I do not believe this BRAC round should proceed at this time.

Advocates of BRAC allege that billions of dollars will be saved, despite the fact that there is no consensus on the numbers among different sources. These estimates vary because, as the Congressional Budget Office explained in 1998, BRAC savings are really ''avoided costs.'' Because these avoided costs are not actual expenditures and cannot be recorded and tracked by the Department of Defense accounting systems, they cannot be validated, which has led to inaccurate and overinflated estimates of savings.

These estimated savings also do not include the very real costs of economic cleanup and financial assistance provided by Federal agencies to BRAC-affected communities and individuals. According to a 1998 report by the General Accounting Office, the unaccounted costs for environmental cleanup beyond the 6-year BRAC implementation period can exceed $2.4 billion and an additional $1.1 billion was in community assistance—and also not accounted for in the Department's estimated savings that result from BRAC.

That same General Accounting Office report also found that land sales from the first base closure round in 1988 were estimated by Pentagon officials to produce $2.4 billion in revenue; however, as of 1995, the actual revenue generated was only $65.7 million. That's about 25 percent of the expected value. This type of overly optimistic accounting establishes a very poor foundation for initiating a policy that will have a permanent impact on our national defenses, the military and the civilian communities surrounding these bases.

So the bottom line is, no one really knows what the bottom line is. But what most concerns me is the inadequacy of the military's threat assessment projections time after time accompanying the requirement included in the enacting BRAC legislation in 1991, that stipulates that the Secretary:

> shall include a force structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the six-year period beginning with the fiscal year for which the budget request is made.

I can say this because I have reviewed the military threat assessments contained in the force structure plans that the Department provided along with the justifications for the 1991, 1993 and 1995 BRAC rounds as well as other key assessments made by the Department during that time such as the 1993 Bottom Up Review, the 1997 Quadrennial Review and the 2001 Quadrennial Review. Specifically, I wondered, how did actual events and results match with their expectations? How did their threat assessments dovetail with new realities like ''terrorism,'' ''asymmetric threat,'' ''homeland security'' or ''homeland defense.'' I then went back a little more than 21 years ago to the bombing of the U.S. embassy in Beirut and looked at significant terrorist events directed against Americans throughout the world as chronicled by the State Department.

In the 1980's, American interests were clearly and constantly under attack—6 months after the embassy bombing in Beirut, we lost 242 brave Marines there to a suicide bomber. In 1985, TWA flight 847 was hijacked and a U.S. Navy diver, Robert Stethem was killed, and that October, four terrorists seized the *Achille Lauro* and killed Leon Klinghofer. In 1986, another two servicemen were killed and 79 American servicemen injured when a Berlin disco was bombed—my colleagues will recall this action resulted in President Reagan's launching of Operation El Dorado Canyon against Libya—and, tragically, in December of 1988, Pan Am 103 was destroyed over Lockerbie. Those are just a few of the significant incidents out of the 17 listed by the State Department in the 1980's in which Americans were the targets of terror.

Yet after all these events, let's look at what the four page 1991 BRAC military threat assessment submitted for the years 1992–1997 had to say:

> Threats to US interests range from the enmity of nations like North Korea and Cuba, to pressures from friend and foe alike to reduce US presence around the world.
>
> The most enduring concern for US leadership is that the Soviet Union remains the one country in the world capable of destroying the US with a single devastating attack.
>
> The Soviet state still will have millions of well armed men in uniform and will remain the strongest military force on the Eurasian landmass.
>
> While Iraq will require perhaps a decade to rebuild its military capabilities to pre-hostilities levels, Baghdad will likely remain a disruptive political force in the region.

As for terrorism, there was just a passing mention of the issue as an impediment to regional stability and the enhancement of democracy worldwide but no discussion of it in the context as a threat to the United States.

No mention of ''asymmetric threats,'' and no ''homeland security.''

Then, on February 26, 1993, the World Trade Center was badly damaged when a car bomb planted by Islamic terrorists exploded in an underground garage, leaving 6 people dead and 1,000 injured. Yet the military threat assessment contained in the 1993 BRAC report told us:

> The vital interests of the United States will be threatened by regional crises between historical antagonists such as North and South Korea, India and Pakistan and Middle East/Persian Gulf states.
>
> The future world military situation will be characterized by regional actors with modern destructive weaponry, including chemical and biological weapons, modern ballistic missiles and, in some cases, nuclear weapons.
>
> In the Middle East, competition for political influence and natural resources along with weak economies, Islamic fundamentalism and demographic pressures will contribute to deteriorating living standards and encourage social unrest.

Please note, now, in this report, oddly there is suddenly once again no mention of ''terrorism'' at all, and no ''asymmetric threat,'' no ''homeland security.''

Furthermore, the Bottom Up Review, a wide ranging review of strategy, programs and resources to delineate a national defense strategy, signed out in October 1993 described four new dangers to U.S. interests after the end of the Cold War:

> No. 1, The proliferation of nuclear and other weapons of mass destruction,
>
> No. 2, Aggression by major regional powers or ethnic and religious conflict,
>
> No. 3, Potential failure of democratic reform in the former Soviet Union, and
>
> No. 4, The potential failure to build a strong and growing US economy.

This report was issued just 8 months after that 1993 bombing of the World Trade Center, yet there was still no mention of ''asymmetric threat,'' no ''homeland security'' and just a passing reference to ''state-sponsored'' terrorism. And even at that, the World Trade Center bombing was not conducted by ''state-sponsored'' terrorists but rather the Sheikh Omar Rahman, a non-state-sponsored terrorist.

Back to the timeline, in March 1995 we see the Tokyo subway attack by the Aum-Shinrikyo cult using sarin gas, the same gas discovered in Iraq this

week, killed 12 and injured 5700 and, a month later, Timothy McVeigh and Terry Nichols destroyed the Federal Building in Oklahoma City with a truck bomb, killing 166 of our fellow citizens.

By contrast, I was astounded that the 1995 Force Structure Plan addressing threats from 1995 through 2001 was—other than the removal of a few sentences—the same as the 1993 BRAC threat assessment—so much for rigorous analysis. Still no ''terrorism,'' no ''asymmetric threat,'' and no ''homeland security''—and this less than 6 years before September 11th! Remember this BRAC round requires DoD to look outward 20 years!

In 1996, a fuel truck carrying a bomb exploded outside the Khobar Towers housing facility in Dhahran. The Global Security Environment piece of the 1997 Quadrennial Defense Review described the world as a highly dangerous place with a number of ''significant'' challenges facing the U.S. including:

> Foremost among these is the threat of coercion and large-scale, cross-border aggression against U.S. allies and friends in key regions by hostile states with significant military power.
>
> Second, despite the best efforts of the international community, states find it increasingly difficult to control the flow of sensitive information and regulate the technologies that can have military or terrorist uses.
>
> Third, as the early years of the post-Cold War period portended, U.S. interests will continue to be challenged by a variety of transnational dangers. . . . The illegal drug trade and international organized crime will continue to ignore our borders, attack our society, and threaten our personal liberty and well-being.
>
> Fourth, while we are dramatically safer than during the Cold War, the US homeland is not free from external threats. . . . In addition, other unconventional means of attack, such as terrorism, are no longer just threats to our diplomats, military forces, and private Americans overseas, but will threaten Americans at home in the years to come.

So by 1997, the Department was acknowledging the fact that terrorists using asymmetric means might attack the homeland—again, I might add yet it still remained a fourth tier concern for the Pentagon in spite of the continuing onslaught of terrorism around the world—and the 1993 bombing here at home.

Then, in 1998, two bombs exploded almost simultaneously outside US embassies in Kenya and Tanzania. In Aden, Yemen 2 years later, a small dingy carrying explosives rammed the USS *Cole*. And then, September 11th, 2001 changed our lives forever. What did the 2001 Quadrennial Defense Review—issued, I might add, 19 days after the attack—find? They found that ''as the September 2001 events have horrifically demonstrated, the geographic position of the United States no longer guarantees immunity from direct attack on its population, territory or infrastructure,'' and that ''the United States is likely to be challenged by adversaries who possess a wide range of capabilities, including asymmetric approaches to warfare, particularly weapons of mass destruction.''

That was an astute observation considering what happened 19 days before. And by the way, I also noted in examining the 80 page 2001 Quadrennial Defense Review the lack of any mention of al Qaeda by name—not once.

All this illustrates the significant dose of skepticism with which we should examine the current force structure plan and accompanying threat assessment submitted by the Department to justify the BRAC 2005 round—again, considering that we would now base decisions on a 20 year assessment, never mind just 6—and even the 6 year projections proved spotty at best—and considering the volatile times in which we live. And I have to say that what we received—over a month later than required by the BRAC legislation, I might add—is about what I expected—not much. Indeed, my sense is they took the assumptions made for the Future Year Defense Plan and simply extended them out to 2009.

Even after 20 years of constant terrorist attacks, the Defense Department still hasn't matched its force structures with the threats to our Nation. In fact, they avoided the entire issue of the threats this Nation will face over the next twenty years by claiming that today's security environment is ''impossible to predict, with any confidence, which nations, combinations of nations or non-state actors may threaten U.S. interests at home and abroad.''

And when the department claims they have adopted an approach to force development based on capabilities rather than threat-based requirements and will need a ''flexible, adaptive, and decisive joint capabilities that can operate across the full spectrum of military contingencies.''—what exactly does that mean? Is that the kind of bureaucratic ''gobbledygook'' and uncertainty upon which we should be considering closing our military bases. I do not think so and neither do other Americans. For example, retired Navy captain Ralph Dean succinctly observed in a recent Maine newspaper column that:

> Secretary of Defense Donald Rumsfeld released his 20-year force structure plan as an input to BRAC. Surprisingly, it showed virtually no changes in overall force structure during that long period. This may indicate that DoD is unable to make projections with any degree of certainty. This uncertainty must be addressed, because BRAC actions are irreversible.

Let there be no mistake, as the President has said, our global war on terror will be a long struggle that is just beginning. These are unconventional threats for an unconventional era—how can we possibly project outward 20 years to know our needs? At the same time, we are learning that quantity of troops matters—as DoD was forced to recalibrate and send an additional 20,000 troops to Iraq. Moreover, this very legislation before us would authorize an increase in the Army's end strength of 30,000 soldiers—yet we want to reduce our number of bases? Indeed, the BRAC 2005 force structure plan addresses neither the potential surge requirements we may face in this protracted struggle nor the need for more troops. In its May 2004 report, the GAO has said:

> The department must consider ongoing force transformation initiatives in its BRAC analysis as well as factor in relevant assumptions about the potential for future force structure changes—changes that will likely occur long after the timeframes for the 2005 BRAC round. This includes consideration of future surge requirements.

Frankly, there is even confusion between DoD and the services. On May 12, 2004 the Boston Globe reported the Navy is conducting an internal study and considering slashing its attack submarine force by as much as a third as they work toward their 2006 budget submission. This despite the fact that information we have been provided by the Navy indicates no changes in the Future Year Defense Plan.

Where is the coordination in assessing the threat or planning force structure needs? And what of the ''joint'' war-fighting plans that are still being developed? If BRAC decisions are based on untested and untried ''joint'' concepts, then DoD could well face limited options down the line because of limitations of facilities if all the anticipated efficiencies are not realized.

The Force Structure Plan clearly states the limits of their excess capacity analysis, saying:

> The results presented in this section cannot be used to project the number of potential BRAC closures or realignments that could be achieved in each installation category.

Without this projection, how are the savings from BRAC being estimated and what is driving the scope of BRAC? What is needed is a rigorous analysis that determines the number of BRAC closures or realignments that are expected to be achieved for each type of military installation.

Finally, the Pentagon was also instructed to consider the effects of overseas bases and joint tenancy in its assessment of excess capacity, and while the submitted Force Structure Plan tells us how many installations the US currently operates overseas, it provides no information about the number of bases and troops expected to be located overseas over the next 20 years or where these bases would be located nor does it detail the functions that are being considered for joint operations and how much efficiency is expected to be gained by these changes.

The amendment proposed by Senators DORGAN, LOTT, FEINSTEIN and myself ensure that Congress is provided with sufficient time to deliberate on what infrastructure is needed to provide for our Nation's security now and well into the future. While I would have preferred to cancel the process altogether, the amendment offered today ensures that these irrevocable decisions are made with sufficient deliberation. The amendment provides for an

expedited consideration by Congress for a domestic base closure round in 2007—after the completion of an overseas BRAC action.

The amendment is a recognition that the operation, sustainment, and recapitalization of unneeded overseas bases diverts scarce resources from the nation's defense capabilities and requires the Secretary of Defense to establish a management structure and initiate a process for eliminating excess physical capacity at overseas bases.

After conducting this review of overseas facilities, the Secretary would provide to Congress and the BRAC Commission a list of military installations, a detailing of the reassignments of troops and equipment from affected bases, and an estimate of the cost savings to be achieved. The Secretary would also be required to provide a certification whether a domestic round of BRAC would be necessary.

The BRAC Commission would then evaluate the Secretary's recommendations and provide an assessment of the extent that the Secretary accounted for the final report of the Commission on the Review of the Overseas Military Facility Structure of the United States, whether the Secretary maximized the amount of savings and whether a domestic BRAC round in 2007 is warranted.

After the BRAC Commission completes its work, there is a process for an expedited consideration of an additional domestic BRAC. The amendment requires a ''joint resolution'' be introduced within 10 days after the President transmits to Congress an approval and certification for a domestic base closure round. If passed by Congress, then within 15 days, the Secretary will publish in the Federal Register the selection criteria to be used and a schedule for the BRAC round, and the domestic BRAC would proceed as originally planned.

According to the Congressional Budget Office, the U.S. military has approximately 197,000 active-duty personnel stationed permanently outside the United States—that is 14 percent of our active duty military and 19 percent of the Army active-duty forces. And, while the Secretary of Defense has estimated an excess capacity of 29 percent in the Army domestic infrastructure, the Congressional Budget Office, in a May 2004 report on overseas basing has said:

> Because of the various rounds of base realignment and closure (BRAC) that have occurred since the late 1980s, the Army has little excess capacity at its bases to absorb so many additional troops and units.

And according to former DoD Comptroller Dov Zakheim:

> BRAC does . . . make it difficult to move our forces directly to where they ought to go if you don't want them to be overseas.

Most of these overseas troops are stationed in Germany and South Korea, where the United States currently maintains 330 bases at an estimated cost of $1.2 billion annually. The administration has raised a number of concerns about these forces, including the fact that Army forces in Germany may not be able to deploy quickly to conflicts in Africa or the Caspian Sea region of Central Asia. Additionally, many of the bases in South Korea, which were formerly isolated, are becoming increasingly surrounded by commercial and residential communities, leading to greater friction with the local communities and limiting the training that can be conducted.

The Congressional Budget Office has determined that removing the Army forces from Germany and South Korea and relocating them in the United States would not affect deployment times, make available 4,000 to 10,000 more troops for sustained overseas operations, and reduce family separation by 22 percent, improving troop morale and retention rates. These changes would also result in an estimated annual savings of $1.2 billion. More important than financial considerations, today's uncertain environment requires our troops to be more agile and mobile and the time is long past to reevaluate an overseas base structure that was developed to meet the threats of the Cold War.

Some people contend that the overseas basing decisions will be completed in time to be accounted for by the BRAC process. But the current legislation provides for the Commission on Review of Overseas Military Facility Structure of the United States to report on their findings to Congress no later than December 31, 2004—only 4½ months before the BRAC decisions are to be completed. This timeline does not allow the Department of Defense to fully account for these overseas facilities in their domestic BRAC analysis nor does it include any time to include any of the changes to the report that Congress may determine are necessary.

Significant changes are being considered for our overseas bases and forces and these decisions potentially have an enormous impact on our domestic base infrastructure. According to the Congressional Budget Office ''the need to house forces in the United States that are now stationed overseas could preclude some'' of the closures in the upcoming BRAC round.

I want to protect the military's critical readiness and operational assets. And I want to make absolutely sure that this nation maintains the military infrastructure it will require in the years to come to support the war on terror and protect our homeland. The amendment my colleagues and I have proposed today will ensure that the evaluation of military facilities by the Department of Defense, both overseas and within the United States, is conducted with rigor and in a deliberative, systematic manner. As Senator HUTCHISON correctly observed:

> It would be irresponsible to build on an inefficient, obsolete overseas base structure, as we face new strategic threats in the 21st century, taking valuable dollars needed elsewhere.

Likewise, it would be irresponsible to continue with a domestic BRAC without a complete understanding and evaluation of our overseas basing requirements. This amendment will allow Congress time to exercise its oversight responsibilities and ensure that these important decisions—which cannot be undone—are serving the Nation's interests.

In closing, I believe that we must give the Department the time it needs to conduct a legitimate analysis of our security environment and the underpinning force structure and infrastructure requirements. Therefore I urge my colleagues to support the amendment before us.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

SUPPORT FOR U.S. TROOPS

Mr. DASCHLE. Mr. President, earlier today I heard a particularly egregious comment made on the Senate floor that I cannot in good conscience allow to pass unchallenged.

If there is one individual whose support for our troops and their effort I never thought would be subject to attack, it is JOHN MURTHA.

I served with Representative MURTHA in the House. I know full well the honorable service he has rendered to his country. And I know how hard he labors every day to promote the interests of our nation and its citizens—in particular our men and women in uniform.

JOHN joined the Marine Corps during the Korean War, and he later volunteered to serve in Vietnam. His public service continued back home when he became the first combat Vietnam veteran elected to Congress. JOHN has been awarded both the Navy Distinguished Service Medal and the USO's Spirit of Hope Award.

As most know, Representative MURTHA was a strong advocate for the Iraq war. And not too long ago, my Republican colleagues were praising him for his position. But now that he has raised reasonable questions about how the war has been handled by the Administration, he is being accused of aiding our enemies.

There should be no room in our debate for such personal attacks.

JOHN MCCAIN. Max Cleland. And now JOHN MURTHA. All of these men honorably served our country, and all have had their character impugned.

JOHN MURTHA is an honorable man with a long history of public service. No one should question his dedication to our troops and their families, and to the national interest.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 25, 2000, in Baton Rouge, LA, a jury convicted Quincy Powell of second-degree murder for the beating and stomping death of Michael Fleming, a gay man, in June 1999. Prosecutors said that Powell killed the victim because he was gay and subsequently referred to the victim at ''faggot Mike'' when he recounted the murder.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

MARIANNE LAMONT HORINKO

Mr. INHOFE. Mr. President, I rise today to honor Marianne Lamont Horinko who currently serves as the Assistant Administrator of the Office of Solid Waste and Emergency Response at the Environmental Protection Agency. Marianne has served our Nation in that post since October 1, 2001, and just a few weeks from now will return to private life and to spend more time with her family.

As Assistant Administrator of OSWER, Marianne demonstrated outstanding leadership and has met the unprecedented challenges of a post September 11th America. Ms. Horinko realized the incredible challenges that lay before her just one month after the horrific attacks of that day. Immediately upon assuming office, Marianne refocused the traditional missions of OSWER from waste management and related reclamation work of contaminated sites to emergency response of historic proportions. She led the clean-up effort at Ground Zero in New York City and the Pentagon, a mission that no one could have contemplated before then and still haunts us today.

While managing the emergency response of the September 11th destruction, Congress itself was the victim of a cowardly anthrax biological attack. Facing yet another unprecedented event, Marianne led the emergency response and clean up effort not of a Superfund site, but of the Senate office buildings, and ensured that the Capitol community was safe from harm and helping Congress return to doing the work for the Nation.

In 2003, as National Program manager, Ms. Horinko oversaw EPA's response to the Columbia Space Shuttle Disaster. Again, Marianne charted a new course for OSWER and crafted the groundbreaking National Approach to Response.

Marianne has accepted challenge after challenge head on as Assistant Administrator of OSWER, and assumed responsibility when called upon. Not only did she exceed expectation in that role, but she also performed as acting administrator of the entire Environmental Protection Agency after the resignation of Governor Whitman.

Marianne has brought dynamic new approaches to environmental protection using partnerships, flexibility and innovation to create environmental improvements rather than the old command and control systems of the past. The Brownfields program, signed into law by President Bush in 2002, is just one of the many ways that Marianne's results-based leadership led to environmental protection.

Marianne Lamont Horinko proved to be one of the most diligent, dynamic, and outstanding leaders in the history of the Environmental Protection Agency. We thank her for her service to our Nation, and wish her all the best in her future pursuits.

ROSIE THE RIVETER

Mrs. BOXER. Mr. President, the famous poster of ''Rosie the Riveter,'' created by J. Howard Miller in 1943, was quite well known throughout America during World War II. The slogan on the poster—''WE CAN DO IT!''—captured the spirit and dedication of our Nation's women during World War II. ''Rosie the Riveter'' became a nickname for the women who entered the workforce during the war.

World War II profoundly changed the role and status of American women. During this war, over 6 million women joined the workforce, filling jobs that had been traditionally held by men. For the first time in history, women in large numbers worked to produce ships, planes, tanks, trucks, guns and ammunition that were essential to the war effort. They worked in factories while raising their kids—often by themselves as their husbands were fighting abroad.

In California, women worked in factories across the state, from the Douglas Aircraft Company plant in Long Beach to the Ford Assembly plant in Richmond, CA.

These women's contributions on the homefront were invaluable to our nation's victory in World War II. As we approach Memorial Day—and the dedication of the World War II Memorial—I want to express my gratitude to our Nation's ''Rosies'' for their effort in helping America win the war.

In 2000, Congress enacted legislation, introduced by Representative GEORGE MILLER, to create the Rosie the Riveter/World War II Home Front National Historical Park in Richmond, CA. Senator FEINSTEIN and I introduced the Senate companion bill.

Richmond, CA was chosen as the site since the city played a significant role in the World War II effort on the homefront. Fifty-six war industries operated in Richmond, and the Kaiser Shipyards produced more ships than any other shipyard in the United States. The Ford Assembly Plant prepared for shipment overseas more than 20 percent of all tanks and other combat vehicles used by the United States during World War II.

The Rosie the Riveter/World War II Home Front National Historical Park is the first park created to commemorate the contributions of men and women on the U.S. home front during World War II and to preserve the historic sites, structures and stories associated with World War II.

I am so pleased that the park, in partnership with Ford Motor Company and the National Park Foundation, has initiated a campaign to find ''Rosies'' across the country to collect their personal stories and memorabilia to share with future generations. I commend Ford Motor Company and the National Park Foundation for their efforts to preserve such an important piece of our history.

In this historic year—the 60th anniversary of D-Day—while we are honoring the Nation's veterans, let us not forget to honor the women whose contributions were critical to our success in World War II.

IN RECOGNITION OF OLDER AMERICANS MONTH

Mr. SARBANES. Mr. President, in 1963, President Kennedy began an important tradition of designating a time for our country to honor our older citizens for their many accomplishments and contributions to our Nation. I rise today to continue that tradition and recognize May as ''Older Americans Month.'' Those of us who have worked diligently in the U.S. Senate to ensure that older Americans are able to live in dignity and independence during their later years welcome this opportunity to pause and reflect on the contributions of those individuals who have played such a major role in shaping our great Nation. We honor them for their hard work and the countless sacrifices they have made throughout their lifetimes, and look forward to their continued contributions to our country's welfare.

In line with the theme of this year's Older Americans Month, ''Aging Well, Living Well,'' I want to take this opportunity to highlight the importance of quality and comprehensive health care for our seniors. They deserve nothing less. I have significant concerns about what the future holds in this regard. I voted against the Medicare Prescription Drug and Modernization Act of 2003, which is currently being phased in, because I believed it would jeopardize promises we as a Nation have made to seniors. Many of the concerns that I shared with a number

of my colleagues at that time and during the Senate's consideration of this measure are unfortunately now coming to fruition.

One of my principal concerns is that the new law will fail to provide a comprehensive, consistent and affordable prescription drug benefit to Medicare beneficiaries. And now as we look at the uncertainty of monthly premiums and incomplete coverage for drug costs under the new law, it is increasingly clear that corporate interests won out over the interests of the elderly. Indeed, at least 2.7 million retirees are expected to lose their existing retiree prescription drug benefits—which are of higher quality—and will instead have to use the Medicare drug benefit.

Moreover, I continue to be deeply concerned that existing Medicare beneficiaries will be forced into managed care organizations in order to receive substantial prescription drug benefits. Because of the recent history with Medicare+Choice plans, it has been suggested that requiring seniors to rely on the private market for coverage represents a significant threat to the very existence of Medicare as we have known it for the last 40 years.

On top of all of this, the Medicare trustees have predicted exhaustion of the Medicare Trust Fund 7 years earlier than previously predicted. With the rising costs of drugs and health care in general, and the implicit lack of means to reduce drug costs in the new law, we will be faced with hard decisions sooner than originally anticipated. Hopefully, the answer will not be to seek to decrease benefits.

To address these concerns, I am in favor of proposals to provide Medicare beneficiaries with full prescription drug coverage. In fact, a number of my colleagues and I supported legislation during the Senate's consideration of the Medicare overhaul that would have controlled drug prices by allowing our Government to negotiate directly with drug companies.

Unfortunately this amendment was defeated when it came to the Senate for a full vote, but I continue to work with my colleagues on this and other proposals in an effort to bring these prices under control.

In addition to health care access, our seniors deserve adequate protection through our Social Security Program. There are those who have suggested that to enable the Social Security fund to meet the expanding demand of our growing number of retirees, we should decrease benefits.

The key strength of the Social Security system is its guaranteed benefit and we must work to preserve it rather than diminish it. Social Security has been effective in improving the standard of living and reducing poverty among the elderly and disabled by providing an inflation-indexed, defined benefit no matter how long an individual lives. Throughout their lives, seniors have paid into a system with the understanding that their benefits will be there for them when they retire. We ought to uphold our end of the bargain and ensure that these benefits are available.

President Franklin Roosevelt signed the Social Security Act into law against a backdrop of increasing poverty among elderly Americans. President Roosevelt sought to give ''a measure of protection for the average citizen and to his family against the loss of a job and against poverty-ridden old age.'' In my view, the words of President Roosevelt should continue to guide our conscience.

America's Older Americans add great value to our Nation. We ought to take this month as an opportunity to show our appreciation for the value they add and redouble our efforts to support their needs.

RETIREMENT OF FRANCES PRESTON

Mr. LEAHY. Mr. President, I would like to take a moment to recognize the remarkable career of Frances Preston. When Ms. Preston began working for Broadcast Music Incorporated in Nashville in 1958, she had only one assistant and her office was her parents' garage. She soon saw the company grow to more than 400 employees in that city alone. In 1985, she became Senior Vice President, Performing Rights, and in 1986 she was named President and CEO of BMI.

Since 1958 when she joined BMI, Ms. Preston has been an invaluable resource to the entire music industry. Her steady and visionary leadership has spanned unprecedented industry growth and several revolutions in technology and popular culture. Over that time, she has overseen the development of BMI's nearly 4.5 million musical works and has delivered a royalty system that meets the needs of this massive repertoire. Fortune magazine has rightly called her ''one of the true powerhouses of the pop music business.''

And for more than two decades she has proven herself an equally invaluable resource for those of us in Washington who appreciate the unique importance of the community of songwriters, composers and publishers. She has testified frequently and has vigilantly defended the rights of these individuals. She has also been a key player in the debates regarding music in the digital age. Her dedication to the many participants in the music world, and her unfailing willingness to assist us in Congress in understating their concerns and issues, made her an incomparable asset as we tried to make sound policy and good law in the areas that matter most to music.

Along with her many professional accomplishments, she has devoted herself to a multitude of charitable efforts. Her charitable work ranges from serving as president of the T.J. Martell Foundation for Leukemia, Cancer and AIDS Research, to her work for Goodwill of Nashville. She has received numerous humanitarian awards, including a ''Woman of Achievement'' Award from the Society for the Advancement of Women's Health Research, the first Distinguished Service Award from New York's Elaine Kaufman Cultural Center, and the Lester Sill Humanitarian Award presented at the Retinitis Pigmentosa International Awards.

Ms. Preston's skill and passion will be greatly missed. It is a comfort to know that she will be staying on at BMI in the role of President Emeritus. I thank her for her efforts and wish her well in all her future endeavors.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. OSWALD P. BRONSON, SR.

• Mr. NELSON of Florida. Mr. President, I want to pay tribute to an outstanding leader, administrator and advisor, Dr. Oswald Bronson, the retiring president of Bethune-Cookman College in Daytona Beach, FL.

Dr. Bronson's list of accomplishments, honors and contributions are long and distinguished. Because of Dr. Bronson, Bethune-Cookman has earned a national reputation for excellence in liberal arts education. In his 29 years at Bethune-Cookman, he doubled the enrollment, boosted its endowment from $1.2 million to $25 million, increased its economic impact on the community to $300 million and raised its operating budget to $45 million.

A recognized ''key power broker'' for the Nation's black colleges by Black Issues in Higher Education, Dr. Bronson advised President Clinton on higher education issues and served as chairman and president of several national, influential educational organizations, including the United Negro College Fund, the National Association for Equal Opportunity in Education and most recently the National Association of Independent Colleges and Universities.

And not only is Dr. Bronson a respected voice on higher education issues, but also a leading religious figure. He served as President of the Interdenominational Theological Seminary and President of the United Methodist Church Council of Presidents. As a pastor in three States, Dr. Bronson lectured and taught in numerous mission schools, pastoral institutes and leadership training seminars.

For his dedicated service and distinguished career, Dr. Bronson earned many honors including an honorary Doctor of Divinity Degree, and honorary Doctor of Laws degree and keys to several cities in Florida.

I am honored to call Dr. Bronson a friend and thank him for his remarkable tenure at Bethune-Cookman College and extraordinary contribution to our country. He will be missed, but I know he will continue to make a contribution.•

OHIO COUNTY HIGH SCHOOL

• Mr. BUNNING. Mr. President, I pay tribute and congratulate the students of Randy Brown for winning the ''Role of Citizen'' unit award at the national finals of We The People: The Citizen and the Constitution program. This class hails from Ohio County High School of Hartford, KY.

This program is run by the Center for Civic Education, a Los Angeles-based organization that strives to get students involved in government and civic affairs. The event simulates a congressional hearing whereby high school students testify as constitutional experts before a panel of judges.

The members of the winning class are: Jeffrey Ashby, Samantha Beck, Hannah Benton, Jonathan Brown, Crystal Clayton, Jeffrey Coulter, Amanda Critchelow, Jessica Culbertson, Lauren Danks, Shellena Davis-Roberts, Ashley Evans, Raven Evans, Judson Hunter, Savannah Johnson, Daniel Justice, Julie Leach, Brian Mayes, Mallory Nauman, Mallory Phelps. Lauren Pieper, Emily Renfrow, Anthony Rusher, Jonathan Shrewsbury, Ashton Variot, Chase Vincent, Amy Walsh, Meredith Ward, Bailey Westerfield, Britney Westerfield, and Emily Williams.

The citizens of Ohio County can be very proud of these students. Their achievement should be an inspiration to all throughout the entire Commonwealth of Kentucky. Congratulations.•

FRED F. ZELLER

• Mr. BOND. Mr. President, I wish to pay special tribute to Mr. Fred F. Zeller, the American Legion District 11 and 12 Legionnaire of the Year. Fred and the millions of other veterans that have served have earned our Nation's most sincere thanks for the service and sacrifices they rendered. It is their service that provided the umbrella of freedom under which we live today.

Mr. Zeller earned his eligibility to be a member of The American Legion by serving in the U.S. Navy in World War II as part of the greatest generation and has enjoyed 57 continuous years in The American Legion.

After being discharged from the Navy in 1946, Fred joined Post 225 in Ohio. He was transferred by his company to Minnesota in 1951 where he joined Post 257. He served on various committees, the executive board and Captain of the Color Guard and the Firing Squad for 8 years. His job took him to many places and he landed in Missouri and settled in St. Louis in 1978, becoming a member of Post III where he took part in all of the Post activities.

Fred is presently serving as Judge Advocate and President of G.A.P.L., the building and grounds part of the post. For sharing all of his knowledge, skill and hard work, Mr. Zeller was presented a gold card and life membership in 1999. Fred is a member of The Past Commanders Club, having served twice on the Executive board.

Fred exemplifies the true meaning of the word service. As you can see, Fred continued to serve long after he was discharged from the military and we should all be proud of his many accomplishments. Again, I wish to extend my most sincere thanks for Mr. Zeller's service and my congratulations to him on being chosen as Legionnaire of the Year.•

SISTER GERALDINE BERNARDS

• Mr. SMITH. Mr. President, I am proud to pay tribute today to a remarkable woman who is one of Oregon's true health care heroes. For the past 40 years, Sister Geraldine Bernards has devoted herself to the work of Maryville Nursing Home in Beaverton, OR. First as a nurse, then as director of nurses, and for the last 10 years as Administrator, Sister Geraldine has made a positive difference in the lives of countless Oregonians. Sister Geraldine will be retiring this summer, and before she does, I wanted to take the opportunity to share her inspiring story.

Founded in 1963, Maryville Nursing Home is owned and operated by the Sisters of St. Mary of Oregon, and offers ''service with love'' to the elderly. During the four decades of Sister Geraldine's service, Maryville has expanded to include an Alzheimer's unit, a physical therapy unit, an eye clinic, a dental clinic, an activities center, and a multi-purpose gathering center.

In her 10 years as Maryville's administrator, Sister Geraldine has initiated many valuable programs to guarantee quality health care and safety for the residents. Two courtyards have been enclosed, making them attractive and safe places for the residents to enjoy the outdoors with their families. A wireless phone system was introduced which enables nurses to be contacted immediately anywhere in the facility. A security system has been installed. New patient lifts were purchased. The volunteer program has seen a tripling in the number of participants, and a full time director of volunteers has been hired.

Some of the most inspiring words about Sister Geraldine come from those who know her best. Activity Director Hilee Jackson says that Sister Geraldine is ''consumed by making sure that others' needs are met.'' Terry Shrum, Quality Assurance Director, says ''Sister Geraldine would do anything for anyone.''

It is a fitting tribute to her lifetime of service that a Sister Geraldine Bernards Continuing Education Fund is being established to provide financial resources for on-going career education in the fields of health care and early childhood development.

I am proud to join with many other Oregonians in saluting the work of this true health care hero, and I wish her many more years of health and happiness.•

RECOGNIZING THE WORK OF ARTHUR PRATT

• Mr. LUGAR. Mr. President, I want to share with my colleagues a few highlights from the remarkable lifetime of leadership and good works displayed by Mr. Arthur Pratt, the founder and leader of Life Effectiveness Training in Indianapolis, IN.

Over the past 35 years, Mr. Pratt has been a dedicated leader in going into prisons around the country and assisting drug addicted men and women break their dependence on mind altering substances. His work has improved countless lives and the success is particularly evident in the reduced recidivism rates of the prisoners who have completed his program. His expertise and active contributions were the impetus behind legislation that I sponsored and passed requiring at least ten percent of all money allocated to Residential Substance Abuse Treatment programs to be allocated to programs in the jails.

Currently, at the age of 80, Mr. Pratt is a continual voice in advocating proven treatment service for our Nation's state and county jails. Yearly, his program provides approximately 250 alcoholics and drug addicts 90 days of treatment in Marion County Jails. Of the more than 7,000 people he has treated, over two-thirds have not been subsequently arrested. Through Life Effectiveness Training, he counters addiction and recidivism using a tested program that instills strength and confidence in their lives.

Arthur Pratt has dedicated his life to public service, and I am pleased to have this opportunity to congratulate him on his many worthwhile accomplishments.•

OUR PRECIOUS GIFT OF FREEDOM

• Mr. CRAPO. Mr. President, in a few days, a very special dedication will be held a short distance from here. Thanks to the diligence, commitment, and hard work of many people across the United States, our Nation's capital will officially be the proud home to the long-overdue World War II Memorial. It is definitely a time for celebration—a celebration of freedom, life, and honor, a celebration of the United States of America. Most of all, it is a celebration of all the soldiers and citizens who gave life and limb during the early years of the 1940s.

Idaho is home to many World War II veterans. This Memorial Day weekend, those veterans, along with veterans from every State and others who helped at home and abroad, can celebrate a very special Memorial Day. Many fought and many died to defend the United States in a war that ended 59 years ago. Sixteen million served, and 400,000 did not return to families and friends. Each one of these lives increased the value of our citizenship exponentially and immeasurably. This memorial, the design of which was selected after careful review of 400 submissions, stands as a reminder of the

sacrifice of many. It is a most profound honor to their memory.

Watching the evening news is a sobering reminder of what this memorial stands for. It represents freedom from tyranny, peace and justice for all people, bravery in the face of terror and death, and love for America that surpasses words while challenging complacency. The World War II Memorial has an important role to play in teaching us about the price of freedom. It reminds each one of us that we cannot take our United States citizenship lightly. It calls on us to be vigilant in preserving those freedoms as those who have gone before have done with such conviction and singleness of purpose. Many veterans know all too well the physical and emotional challenges that the current generation of military personnel and their families are facing. Their wisdom, insight, and experience will help those who themselves are brand new veterans. These young men and women face the same challenges that others did over half a century ago. This memorial serves as a reminder of the debt of honor and gratitude we owe all veterans. We have a responsibility to care for them and, in our national leadership roles, we must take steps which do the most to support these brave defenders of our freedom.

This memorial represents those who have given life and limb in military service, and it also reminds all Americans of the gift of immeasurable cost—the gift of freedom—that the lives of brave men and women have purchased for all of us. And I can think of no better reason to celebrate.●

HONORING P.J. KEELEY

● Mr. DURBIN. Mr. President, I wish to honor P.J. Keeley, a great husband and father, a fine grandfather, and an outstanding golfer, on the eve of his 75th birthday.

It's appropriate that P.J. is turning 75 this year, having shot an impressive round of 75 on the links in March.

P.J. Keeley married Elizabeth L. Holten Keeley on February 3, 1951, and had 10 children by that union. In addition, P.J. has 24 grandchildren and one great grandchild.

After the death of his wife, Betty, P.J. married Virginia McKee Keeley on August 22, 1998.

P.J.'s passion is golf. In the course of his golfing career, P.J. Keeley won 16 championships at St. Clair Country Club in Belleville, IL. He won his first championship in 1958, at the age of 16, and his last championship in 1987 at the age of 58.

In addition to being an avid golfer, P.J. is an Army veteran who has honorably served his country.

P.J. Keeley served as president of Keeley & Sons, Inc., a well-known highway construction firm, for 23 years, from 1967 through 1989. Keeley & Sons was founded in 1947. In addition, P.J. was president of the Associated General Contractors of Illinois for two terms. Throughout my life, the name Keeley has been synonymous with construction in Southwestern Illinois.

I congratulate P.J. Keeley on the occasion of his 75th birthday and wish him many more years of happiness and accomplishment, both on and off the golf course.●

MESSAGE FROM THE HOUSE

At 3:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2728. An act to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration; to provide for greater efficiency at the Occupational Safety and Health Review Commission; to provide for an independent review of citations issued by the Occupational Safety and Health Administration; to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration; and to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes.

H.R. 3740. An act to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the ''Oscar Scott Woody Post Office Building''.

H.R. 4176. An act to designate the facility of the United States Postal Service located at 122 West Elwood Avenue in Raeford, North Carolina, as the ''Bobby Marshall Gentry Post Office Building''.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3740. An act to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the ''Oscar Scott Woody Post Office Building''; to the Committee on Governmental Affairs.

H.R. 4176. An act to designate the facility of the United States Postal Service located at 122 West Elwood Avenue in Raeford, North Carolina, as the ''Bobby Marshall Gentry Post Office Building''; to the Committee on Governmental Affairs.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2728. An act to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration.

S. 2448. A bill to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7565. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, the Fiscal Year Defense Environmental Restoration Program report; to the Committee on Armed Services.

EC–7577. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''2002 Farm Bill Regulations—Loan Eligibility Provisions'' (RIN0560–AG81) received on May 12, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7578. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Farm Loan Programs Account Servicing Policies—Elimination of 30-Day Past Due Period'' (RIN0560–AG50) received on May 12, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7579. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Phosphomannose Isomerase and the Genetic Material Necessary for Its Production in All Plants; Exemption from the Requirement of a Tolerance'' (FRL#7358–9) received on May 14, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7580. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report entitled ''Report on Activities and Programs for Countering Proliferation and NBC Terrorism''; to the Committee on Armed Services.

EC–7581. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–7582. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations: 69 FR 12084'' (FEMA–B–7744) received on May 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7583. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations: 69 FR 12081'' (44 CFR 65) received on May 12, 2004 ; to the Committee on Banking, Housing, and Urban Affairs.

EC–7584. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, the report of a transaction involving U.S. exports to Algeria; to the Committee on Banking, Housing, and Urban Affairs.

EC–7585. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Rule; Extension of Effective Date; Risk-Based Capital Guidelines, Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets'' (RIN3064–AC74) received on May 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7586. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Secretary, Department of Housing and Urban Development received on May 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7587. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development received on May 12, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–7588. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Public Affairs, Department of Housing and Urban Development received on May 12, 2004; to the Committee on Banking , Housing, and Urban Affairs.

EC–7589. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report relative to research on cabin air quality; to the Committee on Commerce, Science, and Transportation.

EC–7590. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pacific Cod by Catcher/Processor Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area'' received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7591. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fishery Closure; Prohibiting Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska'' received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7592. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closing Pacific Cod by Catcher/Processor Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7593. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeaster United States; Summer Flounder; 2004 Specifications; Commercial Quota Restoration'' received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7594. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fishery Closure; Prohibiting Directed Fishing for Species That Comprise the Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska (GOA)'' received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7595. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule; Final 2004 Specifications, and Preliminary Quota Adjustment; Notification of 2004 Commercial Summer Flounder Quote Harvest for Delaware'' (RIN0648–AQ80) received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7596. A communication from the Assistant Chief Counsel, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Protection of Sensitive Security Information'' (RIN1652–AA08) received on May 12, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7597. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Extension of Amended Special Regulations for the Preble's Meadow Jumping Mouse'' (RIN1018–AJ26) received on May 14, 2004; to the Committee on Energy and Natural Resources.

EC–7598. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Santa Ana Sucker (Catostomus Santaanae)'' (RIN1018–AJ26) received on May 14, 2004; to the Committee on Energy and Natural Resources.

EC–7599. A communication from the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Astragalus Pycnostachyus var. Lanosissimus (Ventura Marsh Milk—Vetch)'' (RIN1018–AJ26) received on May 14, 2004; to the Committee on Energy and Natural Resources.

EC–7600. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to amend section 161k of the Atomic Energy Act to provide executive protection authorities for the Department of Energy (DOE) Federal protective force; to the Committee on Energy and Natural Resources.

EC–7601. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District'' (FRL#7657–3) received on May 12, 2004; to the Committee on Environment and Public Works.

EC–7602. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation; State of Missouri'' (FRL#7661–4) received on May 12, 2004; to the Committee on Environment and Public Works.

EC–7603. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District'' (FRL#7659–8) received on May 12, 2004; to the Committee on Environment and Public Works.

EC–7604. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Control of Emissions of Air Pollution from Non Road Diesel Engines and Fuel'' (FRL#7662–4) received on May 12, 2004; to the Committee on Environment and Public Works.

EC–7605. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''HAS/FSA/HRA Interaction'' received on May 14, 2004; to the Committee on Finance.

EC–7606. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 601.204: Changes in Accounting Periods and in the Method of Accounting'' (Rev. Proc. 2004–33) received on May 14, 2004; to the Committee on Finance.

EC–7607. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004'' (Notice 2004–40) received on May 14, 2004; to the Committee on Finance.

EC–7608. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 602.204: Changes in Accounting Periods and in Methods of Accounting'' (Rev. Proc. 2004–32) received on May 14, 2004; to the Committee on Finance.

EC–7609. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability'' (Rev. Proc. 2004–26) received on May 14, 2004; to the Committee on Finance.

EC–7610. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Reduction of Tax Attributes Due to Discharge of Indebtedness'' (RIN1545–BC47) received on May 14, 2004; to the Committee on Finance.

EC–7611. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—March 2004'' (Rev . Rule 2004–48) received on May 14, 2004; to the Committee on Finance.

EC–7612. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''RIC REPOs'' (Rev. Proc. 2004–28) received on May 14, 2004; to the Committee on Finance.

EC–7613. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''REMIC Inducement Fees Automatic Method Change'' (Rev. Proc. 2004–30) received on May 14, 2004; to the Committee on Finance.

EC–7614. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''TD: Real Estate Mortgage Investment Conduits: Application of Section 446 With Respect to Inducement Fees'' (RIN1545–BB73) received on May 14, 2004; to the Committee on Finance.

EC–7615. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Advance Payment Revenue Procedure'' (Rev. Proc. 2004–34) received on May 14, 2004; to the Committee on Finance.

EC–7616. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Notice Provisions of Section 102 of H.R. 3108'' (Ann. 2004–43) received on May 14, 2004; to the Committee on Finance.

EC–7617. A communication from the Acting Chief, Publications and Regulations Branch,

Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 1.45–1; Taxable Year of Inclusion'' (Rev. Rule 2004–52) received on May 14 , 2004; to the Committee on Finance.

EC–7618. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Guidance Under Section 1504(a)(C) and (D) Regarding Affiliation'' (Notice 2004–37) received on May 14, 2004; to the Committee on Finance.

EC–7619. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Changes in Method of Accounting for Transfers to 461(f) Trusts'' (Rev. Proc. 2004–31) received on May 14, 2004; to the Committee on Finance.

EC–7620. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 601–204 Changes in Accounting Periods and in the Method of Accounting'' (Rev. Proc. 2004–33) received on May 14, 2004; to the Committee on Finance.

EC–7621. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to information on U.S. military personnel and U.S. individual civilians retained as contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–7622. A communication from the Director, Office of Inspector General, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Eligibility of Suspended Health Care Providers to Receive Payment of Federal Employees Health Benefits Program Funds; Financial Sanctions of Health Care Providers Participating in the Federal Employees Health Benefits Program'' (RIN3206–AJ42) received on May 12, 2004; to the Committee on Governmental Affairs.

EC–7623. A communication from the Director, Office of Inspector General, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Changes in Health Benefits Enrollment'' (RIN3206–AK04) received on May 12, 2004; to the Committee on Governmental Affairs.

EC–7624. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–419, ''Practice of Naturopathic Medicine Licensing Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–7625. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–420, ''Mount Vernon Triangle Business Improvement District Temporary Amendment Act of 2004''; to the Committee on Governmental Affairs.

EC–7626. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''Official Seals and Logos'' (RIN3095–AB19) received on May 12, 2004; to the Committee on Governmental Affairs.

EC–7627. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled ''The Department of Labor's 2003 Findings on the Worst Forms of Child Labor''; to the Committee on Health, Education, Labor, and Pensions.

EC–7628. A communication from the Director, Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled ''Underground Mine Ventilation—Safety Standards for the Use of a Belt Entry as an Intake Air Course to Ventilate Working Sections and Areas Where Mechanized Mining Equipment is Being Installed or Removed'' (RIN1219–AA76) received on May 12, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7629. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor'' (RIN1291–AA21) received on May 12, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–7630. A communication from the Assistant Secretary for Indian Affairs, Division of Transportation, Bureau of Indian Affairs, transmitting, pursuant to law, the report of a rule entitled ''Distribution of Fiscal Year 2004 Indian Reservation Roads Funds'' (RIN1076–AE50) received on May 14, 2004; to the Committee on Indian Affairs.

EC–7631. A communication from the Chairman, Dwight D. Eisenhower Memorial Commission, transmitting, pursuant to law, the Commission's Report; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Mr. LEVIN, Mr. CHAFEE, Mr. LIEBERMAN, Mr. AKAKA, Mr. SARBANES, and Ms. MIKULSKI):

S. 2438. A bill to amend title 31, United States Code, to provide Federal Government employees with bid protest rights in actions under Office of Management and Budget Circular A-76, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. HUTCHISON (for herself, Mr. FRIST, and Mr. CORNYN):

S. 2439. A bill to award a congressional gold medal to Michael Ellis DeBakey, M.D; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCAIN:

S. 2440. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself and Mr. TALENT):

S. 2441. A bill to designate the facility of the United States Postal Service located at 607 Pershing Drive in Laclede, Missouri, as the ''General John J. Pershing Post Office''; to the Committee on Governmental Affairs.

By Mr. BOND (for himself and Mr. TALENT):

S. 2442. A bill to designate the facility of the United States Postal Service located at 475 Kell Farm Drive in Cape Girardeau, Missouri, as the ''Richard G. Wilson Processing and Distribution Facility''; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself, Mr. KYL, Mr. CORNYN, Mr. SESSIONS, and Mr. CHAMBLISS):

S. 2443. A bill to reform the judicial review process of orders of removal for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 2444. A bill to amend the Controlled Substances Act to treat drug offenses involving crystal meth similarly to drug offenses involving crack cocaine; to the Committee on the Judiciary.

By Mr. EDWARDS:

S. 2445. A bill to amend the Federal, Food, Drug, and Cosmetic Act relating to direct-to-consumer prescription drug advertising; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 2446. A bill to amend the Harmonized Tariff Schedule of the United States to provide that the calculation of the duty imposed on imported cherries that are provisionally preserved does not include the weight of the preservative materials of the cherries; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. BROWNBACK, Mrs. CLINTON, Mr. SANTORUM, and Ms. LANDRIEU):

S. 2447. A bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GREGG:

S. 2448. A bill to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws; read the first time.

By Mr. BAUCUS (for himself, Mr. ROBERTS, and Mr. ENZI):

S. 2449. A bill to require congressional renewal of trade and travel restrictions with respect to Cuba; to the Committee on Finance.

By Mr. CAMPBELL:

S. 2450. A bill to amend title 10, United States Code, to revise the requirements for award of the Combat Infantryman Badge and the Combat Medical Badge with respect to service in Korea after July 28, 1953; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK (for himself and Mr. BINGAMAN):

S. Res. 365. A resolution expressing the sense of the Senate regarding the detention of Tibetan political prisoners by the Government of the People's Republic of China; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 569

At the request of Mr. ENSIGN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 847

At the request of Mr. SMITH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 884

At the request of Ms. LANDRIEU, the name of the Senator from Washington

(Mrs. MURRAY) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 985

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1368

At the request of Mr. LEVIN, the names of the Senator from Vermont (Mr. LEAHY), the Senator from New York (Mr. SCHUMER), the Senator from Wisconsin (Mr. KOHL) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1733

At the request of Mr. KOHL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1733, a bill to authorize the Attorney General to award grants to States to develop and implement State court interpreter programs.

S. 1900

At the request of Mr. LUGAR, the names of the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 1957

At the request of Mr. BINGAMAN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1957, a bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

S. 2275

At the request of Ms. MIKULSKI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2275, a bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes.

S. 2321

At the request of Mr. BYRD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2321, a bill to amend title 32, United States Code, to rename the National Guard Challenge Program and to increase the maximum Federal share of the costs of State programs under that program, and for other purposes.

S. 2338

At the request of Mr. BOND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 2365

At the request of Mr. COLEMAN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2365, a bill to ensure that the total amount of funds awarded to a State under part A of title I of the Elementary and Secondary Act of 1965 for fiscal year 2004 is not less than the total amount of funds awarded to the State under such part for fiscal year 2003.

S. 2389

At the request of Mr. ENSIGN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 2389, a bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is cooperating in the investigation of the United Nations Oil-for-Food Program.

S. 2437

At the request of Mr. ENSIGN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2437, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S.J. RES. 36

At the request of Mrs. FEINSTEIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S.J. Res. 36, a joint resolution approving the renewal of import restrictions contained in Burmese Freedom and Democracy Act of 2003.

S. RES. 221

At the request of Mr. SARBANES, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 313

At the request of Mr. FEINGOLD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 362

At the request of Mr. GRAHAM of Florida, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Res. 362, a resolution expressing the sense of the Senate on the dedication of the National World War II Memorial on May 29, 2004, in recognition of the duty, sacrifices, and valor of the members of the Armed Forces of the United States who served in World War II.

AMENDMENT NO. 3151

At the request of Mr. LAUTENBERG, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New York (Mrs. CLINTON) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 3151 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3154

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 3154 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction , and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3169

At the request of Mr. DOMENICI, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of amendment No. 3169 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction , and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Mr. LEVIN, Mr. CHAFEE, Mr. LIEBERMAN, Mr. AKAKA, Mr. SARBANES, and Ms. MIKULSKI):

S. 2438. A bill to amend title 31, United States Code, to provide Federal Government employees with bid protest rights in actions under Office of Management and Budget Circular A–76, and for other purposes; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, competitive sourcing is the process by which the Federal Government conducts a competition to compare the

cost of obtaining a needed commercial service from a private sector contractor rather than from Federal employees. Properly conducted, competitive sourcing can be an effective tool to achieve cost savings. Poorly utilized, however, it can increase costs and hurt the morale of the Federal workforce.

The current guidelines under which agencies conduct these competitions are contained in the Office of Management and Budget's (OMB) Circular A–76 (A–76). To ensure that we maximize the benefit and minimize the cost of competitive sourcing, A–76 competition must be conducted in a carefully crafted manner. The rules under which they take place must be fair, objective, transparent, and efficient. In one particular regard, I believe the current rules fail to meet these criteria.

Specifically, they do not allow Federal employees to protest the agency's decisions in an A–76 competition beyond the agency's own internal review processes to the General Accounting Office (GAO). Congress has vested in the GAO the jurisdiction to hear and render opinions in protests of agency acquisition decisions generally. Private sector contractors, in contrast to federal employees, have standing to protest agency procurement decisions, including those in A–76 competitions, before GAO. Today, along with my distinguished colleague, Senator LEVIN, I am introducing legislation to correct this imbalance by providing Federal employees with standing to protest A–76 decisions to GAO.

The current situation does not arise from any conscious policy decision of Congress, GAO or OMB. Rather, it occurs because the Federal statute that confers protest jurisdiction upon GAO, the Competition in Contracting Act of 1984 or ''CICA,'' was not drafted to address the unique nature of A–76 competitions, in particular, the role of Federal employees in the ''Most Efficient Organization'' or ''MEO,'' which is the in-house side of these competitions. This was not deliberate—this particular circumstance for protest was simply not contemplated by Congress when drafting CICA.

Recent revisions to A–76 created the potential for GAO to review past decisions by Federal courts and revisit its own opinions to see whether the revisions would merit a determination that Federal employees had gained standing to protest adverse A–76 competition decisions. However, a recent GAO protest decision indicates that GAO has concluded it lacks the authority under CICA to hear protests from Federal employees in the MEO in these competitions. As a result, corrective legislative action has become necessary in our view.

Our bill would extend GAO protest rights on behalf of the MEO in A–76 competitions to two individuals. The first is the Agency Tender Official or ''ATO.'' The ATO is the agency official who is responsible for developing and representing the Federal employees' MEO. The second is a representative chosen directly by the Federal employees in the MEO for the purposes of filing a protest with GAO where the ATO does not, in the view of a majority of the MEO, fulfill his or her duties in regards to a GAO protest.

As I mentioned, the rules under which these competitions are run must be fair. In addition to being objectively fair, however, I think they must also be perceived as fair by all parties. If the private sector perceives the rules to be unfair, they will decline to participate in competitive sourcing competitions, and the Federal Government will enjoy less competition in its acquisitions. If Federal employees perceive the rules to be unfair, there will be less interest in Federal employment at a time when we are all concerned about the Federal Government's human capital challenges. As the congressionally established Commercial Activities Panel noted in its report on competitive sourcing, the lack of GAO protest rights for Federal employees was one of the most often-heard complaints about the A–76 rules. Providing them with protest rights that are similar to those enjoyed by the private sector is, I think, vital to assuring Federal employees that the rules of the game are fair to them.

The rules must also be efficient. There are three interests that are served by A–76 rules that ensure a speedy process with finality. The Federal Government benefits by enjoying the benefits and efficiencies of competitive sourcing sooner rather than later. Federal workers benefit in that they spend less time having to worry about the outcome of these competitions, which can be stressful as they create uncertainty about employees' employment situations. Finally, because time is money in the private sector, private contractors will benefit by spending less time on competitions as well. In my view, having Federal employees vote to choose a representative to protest when they are dissatisfied with the ATO should achieve the maximum efficiency possible while respecting Federal employees' interests.

In the end, our intent is to bolster the A–76 process by providing a mechanism for Federal employees to seek redress from GAO, an entity that is well known for its fair, effective and expert handling of acquisition protests.

By Mrs. HUTCHISON (for herself, Mr. FRIST, and Mr. CORNYN):

S. 2439. A bill to award a congressional gold medal to Michael Ellis DeBakey, M.D.; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. HUTCHISON. Mr. President, I rise today to acknowledge the lifetime achievements of Dr. Michael Ellis DeBakey, a public servant and world-renowned cardiologist, by offering legislation to award him the Congressional Gold Medal.

When he was only 23 years of age and still attending medical school, Dr. DeBakey accomplished what would be the first of many life saving accomplishments. He successfully developed a roller pump for blood transfusions—the precursor and major component of the heart-lung machine used in the first open-heart operation. This device later led to national recognition for his expertise in vascular disease.

Like many Americans of his generation, Dr. DeBakey put his practice on hold and volunteered for military service during World War II with the Surgeon General's staff. During this time, he received the rank of Colonel and chief of Surgical Consultants Division.

As a result of his military and medical experience, Dr. DeBakey made numerous recommendations to improve the military's medical procedures. His efforts led to the development of mobile army surgical hospitals, better known as MASH units, which earned him the Legion of Merit in 1945.

Following WWII, Dr. DeBakey continued his hard work by proposing national and specialized medical centers for those soldiers who were wounded or needed follow-up treatment. This recommendation evolved into the Veterans Affairs Medical Center System and the establishment of the commission on Veterans Medical Problems of the National Research Council.

In 1948, Dr. DeBakey joined the Baylor University College of Medicine, where it started its first surgical residency program and was later elected the first President of Baylor College of Medicine.

Adding to his list of accomplishments Dr. DeBakey performed the first successful procedure to treat patients with anyeurysms. In 1964, Dr. DeBakey performed the first successful coronary bypass surgery, opening the doors for surgeons to perform preventative procedures to save the lives of many people with heart disease. He was also the first to successfully use a partial artificial heart. Later that same year, President Lyndon B. Johnson appointed Dr. DeBakey as Chairman of the President's Commission on Heart Disease, Cancer and Stroke, which led to the creation of Regional Medical Programs. These programs coordinate medical schools, research institutions and hospitals to enhance research and training.

Dr. DeBakey continued to amaze the medical world when he pioneered the field of telemedicine by performing the first open-heart surgery transmitted over satellite and then supervised the first successful multi-organ transplant, where a heart, both kidneys and a lung were transplanted from a single donor into four separate recipients.

These accomplishments had led to national recognition. Dr. DeBakey has received both the Presidential Medal of Freedom with Distinction from President Johnson and the National Medal of Science from President Ronald Reagan.

Recently, Dr. DeBakey worked with NASA engineers to develop the

DeBakey Ventricular Assist Device, which may eliminate the need for some patients to receive heart transplants.

I stand here today to acknowledge Dr. DeBakey's invaluable work and significant contribution to medicine by offering a bill to award him the Congressional Gold Medal. His efforts and innovative surgical techniques have since saved the lives of thousands, if not millions, of people. I ask my Senate colleagues to join me in recognizing the profound impact this man has had on medical advances, the delivery of medicine and how we care for our Veterans. Although, Dr. DeBakey is not a native of Texas, he has made Texas proud. He has guided the Baylor College of Medicine and the city of Houston into becoming a world leader in medical advancement. On behalf of all Texans, I thank Dr. DeBakey for his lifetime of commitment and service not only to the medical community but to the world. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) Michael Ellis DeBakey, M.D., was born on September 7, 1908 in Lake Charles, Louisiana, to Shaker and Raheeja DeBakey.

(2) Dr. DeBakey, at the age of 23 and still a medical student, reported a major invention, a roller pump for blood transfusions, which later became a major component of the heart-lung machine used in the first successful open-heart operation.

(3) Even though Dr. DeBakey had already achieved a national reputation as an authority on vascular disease and had a promising career as a surgeon and teacher, he volunteered for military service during World War II, joining the Surgeon General's staff and rising to the rank of Colonel and Chief of the Surgical Consultants Division.

(4) As a result of this first-hand knowledge of military service, Dr. DeBakey made numerous recommendations for the proper staged management of war wounds, which led to the development of mobile army surgical hospitals or MASH units, and earned Dr. DeBakey the Legion of Merit in 1945.

(5) After the war, Dr. DeBakey proposed the systematic medical follow-up of veterans and recommended the creation of specialized medical centers in different areas of the United States to treat wounded military personnel returning from war, and from this recommendation evolved the Veterans Affairs Medical Center System and the establishment of the Commission on Veterans Medical Problems of the National Research Council.

(6) In 1948, Dr. DeBakey joined the Baylor University College of Medicine, where he developed the first surgical residency program in the City of Houston, and today, guided by Dr. DeBakey's vision, the College is one of the most respected health science centers in the Nation.

(7) In 1953, Dr. DeBakey performed the first successful procedures to treat patients who suffered aneurysms leading to severe strokes, and he later developed a series of innovative surgical techniques for the treatment of aneurysms enabling thousands of lives to be saved in the years ahead.

(8) In 1964, Dr. DeBakey triggered the most explosive era in modern cardiac surgery, when he performed the first successful coronary bypass, once again paving the way for surgeons world-wide to offer hope to thousands of patients who might otherwise succumb to heart disease.

(9) Two years later, Dr. DeBakey made medical history again, when he was the first to successfully use a partial artificial heart to solve the problems of a patient who could not be weaned from a heart-lung machine following open-heart surgery.

(10) In 1968, Dr. DeBakey supervised the first successful multi-organ transplant, in which a heart, both kidneys, and lung were transplanted from a single donor into 4 separate recipients.

(11) In 1964, President Lyndon B. Johnson appointed Dr. DeBakey to the position of Chairman of the President's Commission on Heart Disease, Cancer and Stroke, leading to the creation of Regional Medical Programs established ''to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals, for research and training''.

(12) In the mid-1960's, Dr. DeBakey pioneered the field of telemedicine with the first demonstration of open-heart surgery to be transmitted overseas by satellite.

(13) In 1969, Dr. DeBakey was elected the first President of Baylor College of Medicine.

(14) In 1969, President Lyndon B. Johnson bestowed on Dr. DeBakey the Presidential Medal of Freedom with Distinction, and in 1985, President Ronald Reagan conferred on him the National Medal of Science.

(15) Working with NASA engineers, he refined existing technology to create the DeBakey Ventricular Assist Device, one-tenth the size of current versions, which may eliminate the need for heart transplantation in some patients.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design, to Michael Ellis DeBakey, M.D., in recognition of his many outstanding contributions to the Nation.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. STATUS OF MEDALS.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

SEC. 5. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 3 shall be deposited into the United States Mint Public Enterprise Fund.

By Mr. MCCAIN:

S. 2440. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, today I am introducing legislation to authorize a special land resource study for the Walnut Canyon National Monument in Arizona. The study is intended to evaluate whether Federal and State lands adjacent to the monument should be managed as part of the monument, and to provide recommendations for management options.

For several years, local communities adjacent to the Walnut Canyon National Monument have debated whether the land surrounding the monument would be best served by protection from future development and managed by the U.S. Forest Service or the National Park Service. The Coconino County Board and the Flagstaff City Council have passed resolutions concluding that the preferred method to determine what is best for the land surrounding the Walnut Canyon National Monument is by having a Federal study conducted. The recommendations from such a study would resolve the question of future management and whether the monument should be expanded.

The legislation also directs the Secretary of the Interior and the Secretary of Agriculture to provide recommendations for management options for maintenance of the public uses and protection of resources of the study area.

This legislation would provide a mechanism for determining the management options for one of Arizona's high uses scenic areas and protect the natural resources of this incredibly beautiful monument. Therefore, I urge my colleagues to support this legislation.

By Mr. HATCH (for himself, Mr. KYL, Mr. CORNYN, Mr. SESSIONS, and Mr. CHAMBLISS):

S. 2443. A bill to reform the judicial review process of orders of removal for purposes of the Immigration and Nationality Act; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce the Fairness in Immigration Litigation Act. The purpose of the Fairness in Immigration Litigation Act is to reform the statutory scheme governing judicial review of immigration removal orders. Currently, we have an absurd situation in which criminal aliens are entitled to

more review and have more opportunities to file frivolous dilatory appeals than non-criminal aliens. The legislation which I am introducing will streamline the process of reviewing final administrative immigration orders, thereby eliminating such unfair results under the current statutory scheme.

In 1961, Congress amended Section 106 of the Immigration and Nationality Act, or INA, to specify the circumstances under which final orders of deportation and exclusion could be reviewed in the federal courts. The statute provided that petitions for review in the circuit courts of appeal were the ''sole and exclusive'' procedure for reviewing deportation orders, and that habeas corpus was available only to challenge exclusion orders of the custodial aspects of immigration detention. The jurisprudence was settled that there were no alternative or additional avenues of judicial review of immigration orders beyond those provided in Section 106.

In 1996, seeking to provide for the more efficient and expeditious removal of aliens who commit serious crimes in the United States, Congress attempted to streamline the judicial review of immigration orders against such aliens. Passed by wide, bipartisan margins, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) eliminated judicial review of immigration orders for most criminals. IIRIRA recognized that criminal aliens had already received a full measure of due process in their criminal cases, as well as in their immigration proceedings, and that additional review typically only served to delay their inevitable removal.

However, because the 1996 reforms lacked express language precluding habeas corpus review, the Supreme Court decided in *INS v. St. Cyr* that habeas review remained available to criminal aliens other than or in addition to the review specified in the INA. Consequently, under current law, criminal aliens may seek habeas review of their deportation orders in district courts and then appeal adverse decisions to the courts of appeals. By contrast, non-criminal aliens are governed by INA §242, and must appeal directly to the court of appeals without the additional layer of review in the district courts. The result is that criminal aliens who have no claim to relief from deportation file frivolous petitions, causing serious delay in securing final judgment against them. This is a complete perversion of the reforms intended by Congress in 1996, and it must be corrected.

Let me illustrate the extent of the problem. In 1995, just before IIRIRA's enactment, there were 403 immigration habeas petitions filed. In 2003, that number rose to 2,374. Over the same period, the total number of immigration-related cases in federal courts rose from 1,939 to 11,906. This is after Congress passed a law to limit the review for criminal aliens. Clearly, the intent of Congress has been frustrated.

Consistent with the settled principled that petitions for review should be the ''sole and exclusive'' means of judicial review for aliens challenging their removal (as reaffirmed in 8 U.S.C. §1252(b)(9) requiring that all issues pertaining to removal orders be brought to the circuit courts of appeal), the Fairness in Immigration Litigation Act streamlines immigration review and protects an alien's right to review by an independent judiciary. It also ensures that even criminal aliens may receive review of pure questions of law and Constitutional claims, as dictated by the Supreme Court in S. Cyr.

With the expanded subject matter jurisdiction in the courts of appeals, the proposed legislation will eliminate the confusing, and indeed inequitable practice of allowing criminal aliens to obtain an additional layer of review through habeas corpus petitions. This legislation is fully consistent with both the Supreme Court's decision in S. Cyr and settled jurisprudence regarding the availability of habeas corpus. These reforms will ensure that aliens will have their day in court, and ensures that the law does not place criminals in a position that is superior to non-criminals. In sum, the Act restores order to the judicial review process in the courts as well as fairness for alien petitioners.

Moreover, the deportation proceedings too often are frustrated by activist judges who place unreasonable burdens on the government to show why a lawfully issued deportation order should be enforced, and who stop the lawful execution of deportation orders even though the aliens have advanced no legal basis to challenge the deportation order. Such activism combined with murkiness in the law have slowed and in some cases halted the government's ability to deport criminal aliens and others who have no right to stay. It is time we clarify the law so that the government can effectively deport those who should be deported.

Often, we hear complaints that the government is not doing enough to protect our borders against illegal entry, and that we need to do more to catch and deport the illegal aliens who have made their way into our country. Without question, sealing our borders and arresting every illegal alien is a monumental undertaking. But with this legislation, we can easily address the immediate problem of removing the illegal aliens that we already have in the system, and sometimes even in our custody.

I want to emphasize that the Fairness in Immigration Litigation Act does not abridge an immigration detainee's right to challenge actual, physical custody through a habeas corpus petition. It is not my intention at all to take away the habeas petition as a legitimate way to challenge physical custody. Instead, this legislation narrowly applies to judicial review of final agency orders of removal, which involve legal issues that should be reviewed through a petition for review by the court of appeals.

I further want to emphasize that nothing in this legislation deprives deportable aliens of all the procedural and substantive due process that the Supreme Court said was required. It simply bars unnecessary delays through collateral attacks. In fact, the only ones who are affected by this bill are criminals who have had their review, but who want to avoid enforcement of their deportation orders by initiating dilatory, collateral attacks, and perhaps their lawyers who charge thousands of dollars to file petitions that they know to be without merit.

In sum, the legislation which I am introducing today will expand the subject matter jurisdiction of the court of appeals so that criminal aliens will receive the judicial review to which they are entitled according to St. Cyr. At the same time, the legislation will streamline the process so that we no longer have the absurd result of criminals getting more protection than non-criminals. The legislation also will reduce the possibility that criminals who are without any statutory relief from deportation can abuse the system by filing frivolous petitions solely to delay their eventual removal from the United States. Furthermore, the legislation will properly place the burden of showing eligibility for relief from deportation upon the applicants for relief, and will clarify our statute so that the government can more effectively execute deportation orders without encountering the obstacles that ambiguous statutes have created.

I ask for the support of my colleagues in passing the Fairness in Immigration Litigation Act, which will restore procedural fairness for all immigrants, but will significantly reduce the backlog in our judicial system created by frivolous and dilatory appeals.

By Mr. LIEBERMAN (for himself, Mr. BROWNBACK, Mrs. CLINTON, Mr. SANTORUM, and Ms. LANDRIEU):

S. 2447. A bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I rise to introduce, along with Senators BROWNBACK, CLINTON, SANTORUM and LANDRIEU, the Children and Media Research Advancement Act, or CAMRA Act. Mr. President, we believe there is an urgent need to establish a Federal role for targeting research on the impact of media on children. Almost 5 years ago, the American Academy of Pediatrics recommended no television viewing for children under the age of 2. They subsequently recommended limiting all screen time exposure, including television, videos, computer and video games, to 1–2 hours per day for

older children. The Academy based these decisions on their best sense of how to facilitate the healthy development of children. However, not enough research had been conducted in this area to know if these particular recommendations were good advice or not. Five years later, we still have very limited information about the role of media, particularly the role of digital media, in very early development. Why not? None of our Federal agencies are charged with ensuring an ongoing funding base for a coherent research agenda about the role of media in children's lives.

From the cradle to the grave, we now live and develop in a world of media—a world that is increasingly digital, and a world where access is at our fingertips. This emerging digital world is well known to our children, but its effects on their development are not well understood. From ages 2–18, children are spending an average of 5 and a half hours with media each day. For those who are under age 6, 2 hours of exposure to screen media each day is common, even for those who are under age 2. That is about as much time as children under age 6 spend playing outdoors, and it is much more time than they spend reading or being read to by their parents. How does this investment of time affect their development? We have all wondered about the answer to this question.

Take the Columbine incident. After two adolescent boys shot and killed some of their teachers, classmates, and then turned their guns on themselves at Columbine High School, we asked ourselves if media played some role in this tragedy. Did these boys learn to kill in part from playing first-person shooter video games like Doom where they acted as a killer? Were they rehearsing criminal activities when playing this game? We looked to the research community for an answer. In the violence and media area, we had invested in research more so than in any other area, and as a result, we knew more. Therefore, some answers were forthcoming about how this tragedy could have taken place as well as steps that could be taken, such as media education programs, which could prevent similar events from happening in the future. Even so, there is still a considerable amount of speculation about the more complex questions. Why did these particular boys, for example, pull the trigger in real life while others who played Doom confine their aggressive acts to the gaming context?

Consider the national health problem of childhood obesity. Does time spent viewing screens and its accompanying sedentary life styles contribute to childhood obesity? Or is the constant bombardment of advertisements for sugar-coated cereals, snack foods, and candy that pervade children's television advertisements the culprit? What will happen when pop-up advertisements begin to appear on children's cell phones that specifically target them for the junk food that they like best? The answer to the obesity and media question is also complex. We need more answers.

A recent report linked very early television viewing with later symptoms that are common in children who have attention deficit disorders. Does television viewing cause attention deficits, or do children who have attention deficits find television viewing experiences more engaging than kids who don't have attention problems? Or do parents whose children have difficulty sustaining attention let them watch more television to encourage more sitting and less hyperactive behavior? How will Internet experiences, particularly those where children move rapidly across different windows, influence attention patterns and attention problems? Once again, we don't know the answer.

Many of us find that our children are becoming increasingly materialistic. Does exposure to commercial advertising and even the ''good life'' experienced by media characters partly explain materialistic attitudes? We're not sure. What will happen when our children will be able to click on their television screen and go directly to sites that advertise the products that they see in those favorite programs?

Many of us believe that time spent with computers is good for our children, teaching them the skills that they will need for success in the 21st century. Are we right?

How is time spent with computers different from time spent with television? Is the time spent with media the key to success, or is the content?

The questions about how media affect the development of our children are clearly important, abundant, and complex. Unfortunately, the answers to these questions are in short supply. Such gaps in our knowledge base limit our ability to make informed decisions about media policy.

We know that media are important. Over the years, we have held numerous hearings in these chambers about how exposure to media violence affects childhood aggression. We have passed legislation to maximize the documented benefits of exposure to educational media, such as the Children's Television Act which requires broadcasters to provide educational and informational television programs for children. We acted to protect our children from harm by passing the Children's Online Privacy Protection Act which provides safeguards from commercial exploitation for our youth as they explore the Internet, a popular pastime for them. But there are many areas where our understanding is preliminary at best, particularly those that involve the effect of our newer digital media. For example, we have passed numerous laws about sexually explicit content, such as the Communications Decency Act, the Child Online Protection Act, and the Children's Internet Protection Act to shield children from exposure to online content that is deemed harmful to minors. However, we know very little about how this kind of exposure affects children's development or about how to prevent children from falling prey to adult strangers who approach them online.

In order to ensure that we are doing our very best for our children, the behavioral and health recommendations and public policy decisions we make should be based on objective behavioral, social, and scientific research. Yet no Federal research agency has responsibility for overseeing and setting a coherent media research agenda that can guide these policy decisions. Instead, Federal agencies fund media research in a piece meal fashion, resulting in a patch work quilt of findings. We can do better than that.

The bill we are introducing today would remedy this problem. The CAMRA Act will provide an overarching view of media effects by establishing a program on Children and Media within the National Institute of Child Health and Human Development. This program of research, to be vetted by the National Academy of Sciences, will fund and energize a coherent program of research that illuminates the role of media in children's cognitive, social, emotional, physical, and behavioral development. The research will cover all forms of electronic media, including television, movies, DVDs, interactive video games, and the Internet and will encourage research with children of all ages—even babies and toddlers. The bill also calls for a report to Congress about the effectiveness of this research program in filling this void in our knowledge base. In order to accomplish these goals, we are authorizing $90 million dollars to be phased in gradually across the next five years. The cost to our budget is minimal. The benefits to our youth and our nation's families are immeasurable.

Our children live in the information age. Our nation has one of the most powerful and sophisticated information technology systems in the world. While this system entertains us, it is not harmless entertainment. Media have the potential to facilitate the healthy growth of our children. They also have the potential to harm. We have a stake in finding out exactly what that role is. Access to that knowledge requires us to make an investment: an investment in research, an investment in and for our children, an investment in our collective future.

By passing the Children and Media Research Advancement Act, we can advance knowledge and enhance the constructive effects of media while minimizing the negative ones. We can make future media policies that are grounded in a solid knowledge base. We can be proactive, rather than reactive. In so doing, we build a better nation for our youth, and we create a better foundation to guide future media policies about the digital experiences that pervade our children's daily lives.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Children and Media Research Advancement Act'' or the ''CAMRA Act''.

SEC. 2. FINDINGS AND PURPOSE.

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

(1) Congress has recognized the important role of electronic media in children's lives when it passed the Children's Television Act of 1990 (Public Law 101-437) and the Telecommunications Act of 1996 (Public Law 104-104), both of which documented public concerns about how electronic media products influence children's development.

(2) Congress has held hearings over the past several decades to examine the impact of specific types of media products such as violent television, movies, and video games on children's health and development. These hearings and other public discussions about the role of media in children's development require behavioral and social science research to inform the policy deliberations.

(3) There are important gaps in our knowledge about the role of electronic media and in particular, the newer interactive digital media, in children's healthy development. The consequences of very early screen usage by babies and toddlers on children's cognitive growth are not yet understood, nor has a research base been established on the psychological consequences of high definition interactive media and other format differences for child viewers.

(4) Studies have shown that children who primarily watch educational shows on television during their preschool years are significantly more successful in school 10 years later even when critical contributors to the child's environment are factored in, including their household income, parents education, and intelligence.

(5) The early stages of child development are a critical formative period. Virtually every aspect of human development is affected by the environments and experiences that one encounters during his or her early childhood years, and media exposure is an increasing part of every child's social and physical environment.

(6) As of the late 1990's, just before the National Institute of Child Health and Human Development funded 5 studies on the role of sexual messages in the media on children and adolescents sexual attitudes and sexual practices, a review of research in this area found only 15 studies ever conducted in the United States on this topic, even during a time of growing concerns about HIV infection.

(7) In 2001, a National Academy of Sciences study group charged with finding solutions to Internet pornography exposure on youth found virtually no literature about how much children and adolescents were exposed to Internet pornography or how such content impacts youth.

(8) In order to develop strategies that maximize the positive and minimize the negative effects of each medium on children's physical, cognitive, social, and emotional development, it would be beneficial to develop a research program that can track the media habits of young children and their families over time using valid and reliable research methods.

(9) Research about the impact of the media on children is not presently supported through one primary programmatic effort. The responsibility for directing the research is distributed across disparate agencies in an uncoordinated fashion, or is overlooked entirely. The lack of any centralized organization for research minimizes the value of the knowledge produced by individual studies. A more productive approach for generating valuable findings about the impact of the media on children would be to establish a single, well-coordinated research effort with primary responsibility for directing the research agenda.

(10) Due to the paucity of research about electronic media, educators and others interested in implementing electronic media literacy initiatives do not have the evidence needed to design, implement, or assess the value of these efforts.

(b) PURPOSE.—It is the purpose of this Act to enable the National Institute of Child Health and Human Development to—

(1) examine the role and impact of electronic media in children's cognitive, social, emotional, physical, and behavioral development; and

(2) provide for a report to Congress containing the empirical evidence and other results produced by the research funded through grants under this Act.

SEC. 3. RESEARCH ON THE ROLE AND IMPACT OF ELECTRONIC MEDIA IN THE DEVELOPMENT OF CHILDREN.

Subpart 7 of part C of title IV of the Public Health Service Act (42 U.S.C. 285g et seq.) is amended by adding at the end the following:

''SEC. 452H. RESEARCH ON THE ROLE AND IMPACT OF ELECTRONIC MEDIA IN THE DEVELOPMENT OF CHILDREN.

''(a) IN GENERAL.—The Director of the Institute shall enter into appropriate arrangements with the National Academy of Science in collaboration with the Institute of Medicine to establish an independent panel of experts to review, synthesize and report on research, theory, and applications in the social, behavioral, and biological sciences and to establish research priorities regarding the positive and negative roles and impact of electronic media use, including television, motion pictures, DVD's, interactive video games, and the Internet, and exposure to that content and medium on youth in the following core areas of child development:

''(1) COGNITIVE.—The role and impact of media use and exposure in the development of children within such cognitive areas as language development, attention span, problem solving skills (such as the ability to conduct multiple tasks or 'multitask'), visual and spatial skills, reading, and other learning abilities.

''(2) PHYSICAL.—The role and impact of media use and exposure on children's physical coordination, diet, exercise, sleeping and eating routines, and other areas of physical development.

''(3) SOCIO-BEHAVIORAL.—The influence of interactive media on childhood and family activities and peer relationships, including indoor and outdoor play time, interaction with parents, consumption habits, social relationships, aggression, prosocial behavior, and other patterns of development.

''(b) PILOT PROJECTS.—During the first year in which the National Academy of Sciences panel is summarizing the data and creating a comprehensive research agenda in the children and media area under subsection (a), the Secretary shall provide for the conduct of initial pilot projects to supplement and inform the panel in its work. Such pilot projects shall consider the role of media exposure on—

''(1) cognitive and social development during infancy and early childhood; and

''(2) the development of childhood obesity, particularly as a function of media advertising and sedentary lifestyles that may co-occur with heavy media diets.

''(c) RESEARCH PROGRAM.—Upon completion of the review under subsection (a), the Director of the National Institute of Child Health and Human Development shall develop and implement a program that funds additional research determined to be necessary by the panel under subsection (a) concerning the role and impact of electronic media in the cognitive, physical, and socio-behavioral development of children and adolescents with a particular focus on the impact of factors such as media content, format, length of exposure, age of child, and nature of parental involvement. Such program shall include extramural and intramural research and shall support collaborative efforts to link such research to other National Institutes of Health research investigations on early child health and development.

''(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

''(1) prepare and submit to the Director of the Institute an application at such time, in such manner, and containing such information as the Director may require; and

''(2) agree to use amounts received under the grant to carry out activities that establish or implement a research program relating to the effects of media on children pursuant to guidelines developed by the Director relating to consultations with experts in the area of study.

''(e) USE OF FUNDS RELATING TO THE MEDIA'S ROLE IN THE LIFE OF A CHILD.—An entity shall use amounts received under a grant under this section to conduct research concerning the social, cognitive, emotional, physical, and behavioral development of children as related to electronic mass media, including the areas of—

''(1) television;

''(2) motion pictures;

''(3) DVD's;

''(4) interactive video games; and

''(5) the Internet.

''(f) REPORTS.—

''(1) REPORT TO DIRECTOR.—Not later than 12 months after the date of enactment of this section, the panel under subsection (a) shall submit the report required under such subsection to the Director of the Institute.

''(2) REPORT TO CONGRESS.—Not later than December 31, 2010, the Director of the Institute shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate, and Committee on Education and the Workforce of the House of Representatives a report that—

''(A) summarizes the empirical evidence and other results produced by the research under this section in a manner that can be understood by the general public;

''(B) places the evidence in context with other evidence and knowledge generated by the scientific community that address the same or related topics; and

''(C) discusses the implications of the collective body of scientific evidence and knowledge regarding the role and impact of the media on children, and makes recommendations on how scientific evidence and knowledge may be used to improve the healthy developmental and learning capacities of children.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $10,000,000 for fiscal year 2005;

''(2) $15,000,000 for fiscal year 2006;

''(3) $15,000,000 for fiscal year 2007;

''(4) $25,000,000 for fiscal year 2008; and

''(5) $25,000,000 for fiscal year 2009.''.

Mr. BROWNBACK. Mr. President, I am pleased to rise today to join my colleagues and support the Children and Media Research Advancement Act or CAMRA. The development of our Nation's children is vital and the way in which media impacts their ability to grow and develop is imperative. For many years, I have been concerned about the impact media has on our children.

The Kaiser Family Foundation recently released their report on electronic media in the lives of infants, toddlers, and preschoolers—ages 0 to 6 years old. Not surprisingly, the study found that children today are reared in a media saturated environment.

According to the study, 99 percent of all children live in a home with a TV set and 50 percent of these children live in a home with three or more TVs of which 36 percent have a TV in their bedroom.

Perhaps even more startling, 30 percent of children ages zero to three years and 43 percent of four to six year olds have a TV in their bedroom. Additionally, 27 percent of children have their own VCR or DVD player in their rooms and 10 percent have their own video game console in their room as well.

Further, 73 percent of children ages 0 to 6 have a computer at home, and 49 percent of these young people have a video game player.

Even more concerning is that the American Academy of Pediatrics recommends that children under two do not watch any television. The Academy further states that all children over two should be limited to one or two hours of educational screen media a day.

However, despite this recommendation, the Kaiser study found that in a typical day, 68 percent of all children under two use screen media—59 percent watch TV, 42 percent watch a video or DVD, five percent use computers and three percent play video games. The study also found that 74 percent of all infants and toddlers have watched TV before the age of two.

Unfortunately, there is a lack of comprehensive research that provides detailed data on the relationship between media and brain development in children. That is why I am pleased to support the Children and Media Research Advancement Act. This will not only encourage much needed research in this area, but will also serve to coordinate such research.

Providing parents and guardians with the most accurate information regarding the impact media has on their children is essential—to do anything less would be reprehensible.

Already many studies—including ones that followed children from age 8 until mid-adulthood (age 30 plus years)—have demonstrated a link between early exposure to entertainment violence and aggressive attitudes, values and behaviors, including increased levels of violent crime against others.

There are three main effects on children of viewing entertainment violence: aggression more likely to think and behave aggressively, and hold attitudes and values favorable to the use of aggression to resolve conflicts; desensitization decreased sensitivity to violence and a greater willingness to tolerate increasing levels of violence in society; fear viewers may develop the ''mean world syndrome'' in which they overestimate their risk of becoming victims of violence.

Even in the Kaiser study I referenced earlier, among all parents whose zero to six year olds watched TV, 81 percent said that they saw their children imitate behaviors from television—36 percent of parents reported that their children mimicked aggressive behavior, 78 percent mimicked positive behavior. When focusing on the four to six year age group, mimicking aggressive behaviors increase to nearly half or 47 percent, with aggressive behavior being imitated more frequently with boys, 59 percent than with girls at 35 percent.

Clearly, we must continue to encourage and fund studies that will show the effects media has on the development of the adolescent brain. I am pleased that CAMRA will encourage this much-needed research in such a crucial area.

Protecting our nation's children and ensuring that parents have the most accurate and complete information on the effects of media on their children should remain our top priority. I look forward to working with Senators LIEBERMAN and CLINTON on an issue that is vital to our society.

Mrs. CLINTON. Mr. President, I rise to join with my colleagues Senators LIEBERMAN and BROWNBACK in introducing the Children and Media Research Advancement Act (CAMRA).

Children today are living in an environment that is saturated with electronic media. Even in the last few years, we've seen a dramatic increase in media targeted directly at children. There's now a booming market of DVDs and videos for infants and the first TV show specifically for children as young as 12 months was launched a few years back. Kids today even have their own cable TV network.

Researchers estimate that children spend an average of five-and-a-half hours a day using these media—this works out to more than they spend doing anything besides sleeping. Even kids under six spend as much time watching TV and videos, playing video games, and using computers as they do playing outside. Unfortunately, we don't really know how this trend affects our children. But we do know that a child's early years affect every aspect of his or her development—physical, emotional, and cognitive. And therefore, we know that ignorance is not bliss.

The longer we wait to understand the full impact of media on our children, the bigger risk we take. And we are gambling with our children's future. Parents need to know how television, movies, advertisements, video games, and the Internet affect their children so that they can make informed decisions about how much and what kind of media their children should be exposed to.

As parents, we know intuitively that our young children shouldn't be watching television shows with extreme violence or age-inappropriate content. But there are other issues we aren't so sure about. How much video game playing is too much? Do advertisements for cereals and junk foods contribute to childhood obesity? How are our very young children and infants impacted by media? Right now we have little idea of what it means for infant development to put babies in front of TVs for hours at a time, but we know that sometimes popping in a video is the best and only way to calm our children down.

Our bill, The Children and Media Research Advancement Act, will help answer these questions by establishing a single, coordinated research program at the National Institute of Child Health and Human Development. This program will study the impact of electronic media on children's—particularly very young children and infant's—cognitive, social and physical development.

One of the first things the program will do will be to work with the National Academy of Sciences and the Institute of Medicine to establish an independent panel of experts to review and synthesize existing research and to establish research priorities on the impact of the media on child development. They'll then award grants for research that addresses the panel's priorities.

If we are truly going to make children a priority, we have to pay attention to and take seriously the activities they're engaged in on a daily basis. Watching television, playing video games, and surfing the Internet are the things that children are doing more than anything else. We need to invest in research that will help us understand how this is affecting our children so that parents can make informed decisions about the positive effects and negative effects of these media on children.

By Mr. GREGG.

S. 2448. A bill to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws; read the first time.

Mr. GREGG. Mr. President, military action in Afghanistan and Iraq has brought to light yet another example of how outdated and burdensome government policies often punish generous employers in America. Apparently, when it comes to companies showing respect for employees who are called to active duty in the military, there is special meaning to the old cliché that ''no good deed goes unpunished.''

An arcane IRS interpretation of tax law actually penalizes employers that

voluntarily pay their National Guard and reservist employees the difference between these patriots' military stipends and their previous civilian salaries—which appropriately is called ''differential pay.'' The law also penalizes employers that continue making contributions to retirement plans for such employees.

According to the IRS, members of the Guard and reserves called up for active duty are required to be treated as if they are on a leave of absence by their employers under the Uniformed Services Employment and Reemployment Rights Act of 1994—USERRA. Therefore, the act does not require employers to pay workers who are on active duty. However, many employers—out of a sense of civic duty—continue to pay active duty Guard members and reservists the difference between their military stipends and their regular salaries with some employers providing such ''differential pay'' for up to three years. In additions, many of these remarkable companies go even further and allow their active duty employees to continue making contributions to their 401(k) retirement plans via deductions from the ''differential payments.''

However, rather than applauding and encouraging such selfless behavior by companies, the IRS's 1969 Revenue Ruling requires that the active duty workers be treated as if they were ''terminated.'' As a result, this law then puts at risk the retirement plan for an employers' entire workforce and could make all amounts in the plan immediately taxable to the plan's participants and the employer. Adding to the absurdity of the situation, preventing an employer from treating ''differential pay'' as wages under the law means employers are prohibited from withholding income taxes, which in turn causes their active duty former employees to face large and unexpected tax bills at the end of the year.

The Uniformed Services Differential Pay Protection Act simply amends USERRA to clarify that differential payments are to be treated as ''wages'' to current employees and that retirement plan contributions from such ''wages'' are permissible. The bill upholds the principle that these patriotic and truly remarkable employers should not be penalized for the selfless generosity they provide to our Nation's reservists and members of the National Guard.

By Mr. BAUCUS (for himself, Mr. ROBERTS, and Mr. ENZI):

S. 2449. A bill to require congressional renewal of trade and travel restrictions with respect to Cuba; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today in disbelief. Yesterday, I learned that a NAFTA panel reviewing the International Trade Commission's (ITC) analysis of material inquiry in Softwood Lumber from Canada has rejected an ITC request for more time to respond to a panel remand. This latest rejection of a reasonable request is simply one more circumstance in which this NAFTA panel has demonstrated its clear disregard of the limits of its own jurisdiction. And it provides further indication to me that the NAFTA Chapter 19 system is seriously off-track and is in need of fundamental reform.

After reviewing the ITC's first remand determination, a 114 page long document that answered all of the Panel's remand issues, the Panel yesterday again remanded, and gave the ITC, in effect, seven business days to craft a new remand determination. The ITC filed a motion to extend, requesting a reasonable period of time to respond fully to the remand determination. The ITC further noted that it would consider reopening the record for new evidence and argument. In fact, the Federal Circuit just several months ago said that the Commission had the exclusive authority to open its record when it believed it should do so.

Outrageously, the NAFTA panel refused to grant the ITC's request, again limiting the ITC to seven business days. Moreover, this runaway panel forbade the ITC from reopening the record, concluding that binding Federal Circuit precedent did not apply in the Panel.

On top of all of this, I understand that U.S.T.R. suggested to the Canadians that there is the appearance of a conflict of interest for one of the panelists.

The NAFTA rules could not be more clear: Chapter 19 Panels must act as would a U.S. court and must follow U.S. law. Panelists with a conflict of interest must step down. And the Federal Circuit has ruled, without reservation or qualification, that the question of whether compliance with a remand order requires the reopening of the record ''is of course solely for the Commission itself to determine.'' *Nippon Steel Corp. v. Int'l Trade Comm'n*, 345 F.3d 1379, 1382 (Fed. Cir. 2003). It is outrageous that a NAFTA panel would seek to avoid binding U.S. law.

All I can say to this very sorry state of affairs is that I don't think Congress will long allow a dispute settlement panel to rewrite perfectly valid trade laws or preempt the powers delegated to the ITC, much less tolerate a dispute settlement system in which panels willfully and routinely breach the clear mandate of their authority that is itself the product of careful negotiation. This NAFTA panel has shown us that they cannot be trusted to respect the integrity of the NAFTA trading system. They have also shown us that the NAFTA panel system is broken and that it must be fixed.

By Mr. CAMPBELL:

S. 2450. A bill to amend title 10, United States Code, to revise the requirements for award of the Combat Infantryman Badge and the Combat Medical Badge with respect to service in Korea after July 28, 1953; to the Committee on Armed Services.

Mr. CAMPBELL. Mr. President, today I am introducing the Korean Defense Service Combat Recognition Act of 2004 which would amend Title 10, United States Code, to revise the requirements for award of the Combat Infantryman Badge and the Combat Medical Badge with respect to service in Korea after July 28, 1953.

The Army awards the Combat Infantry Badge (CIB) to recognize members of infantry units who have been engaged in ground combat. The Combat Medical Badge (CMB) recognizes field medics who accompany infantry troops into battle. A 1968 Army regulation makes it much more difficult for U.S. troops serving in South Korea to be awarded the CIB or CMB than for troops serving almost anywhere else in the world. Specifically, infantrymen stationed in South Korea must be in five firefights in order to qualify for the awards. In other combat zones, the requirement is one firefight.

In addition, to be awarded the medals, troops in South Korea must also have served in theater for sixty days in a hostile fire area, be authorized hostile fire pay, and be recommended by each superior up the chain-of-command to the division level.

My bill normalizes the rules so that all troops, no matter where they serve, are subject to the same eligibility requirements for these two prestigious medals.

Unfortunately, the Army regulation has had the unintended consequence of making it extra difficult for infantry and medical units serving along the DMZ in South Korea to earn combat recognition medals. A spokesman for the Korean Defense Veterans of America (KDVA) has described these requirements as making it nearly impossible to be awarded the CIB for infantrymen serving in Korea, short of getting killed in combat. The KDVA is a group of veterans and active soldiers who are serving, or who have served, in South Korea since 1953.

This language is supported by the KDVA and the Combat Infantryman's Association. The Combat Infantryman's Association is a group of Army infantrymen who have been awarded the Combat Infantry Badge.

It is unfair and wrong to require five firefights in South Korea, but only one firefight in Grenada, Panama, the Dominican Republic, Laos, Vietnam, and almost every other location in the world. The Korean Defense Service Combat Recognition Act of 2004 normalizes the rules so that all troops, no matter where they serve, are subject to the same eligibility requirements for these two prestigious medals.

I urge my colleagues to support its passage and ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Korea Defense Service Combat Recognition Act''.

SEC. 2. REQUIREMENTS FOR AWARD OF COMBAT INFANTRYMAN BADGE AND COMBAT MEDICAL BADGE WITH RESPECT TO SERVICE IN KOREA AFTER JULY 28, 1953.

(a) STANDARDIZATION OF REQUIREMENTS WITH OTHER GEOGRAPHIC AREAS.—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 3757. Korea defense service: Combat Infantryman Badge; Combat Medical Badge

''The Secretary of the Army shall provide that, with respect to service in the Republic of Korea after July 28, 1953, eligibility of a member of the Army for the Combat Infantryman Badge or the Combat Medical Badge shall be met under criteria and eligibility requirements that, as nearly as practicable, are identical to those applicable, at the time of such service in the Republic of Korea, to service elsewhere without regard to specific location or special circumstances. In particular, such eligibility shall be established—

''(1) without any requirement for service by the member in an area designated as a 'hostile fire area' (or by any similar designation) or that the member have been authorized hostile fire pay;

''(2) without any requirement for a minimum number of instances (in excess of one) in which the member was engaged with the enemy in active ground combat involving an exchange of small arms fire; and

''(3) without any requirement for personal recommendation or approval by commanders in the member's chain of command other than is generally applicable for service at locations outside the Republic of Korea.''.

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

''3757. Korea defense service: Combat Infantryman Badge; Combat Medical Badge.''.

(b) APPLICABILITY TO SERVICE BEFORE DATE OF ENACTMENT.—The Secretary of the Army shall establish procedures to provide for the implementation of section 3757 of title 10, United States Code, as added by subsection (a), with respect to service in the Republic of Korea during the period between July 28, 1953, and the date of the enactment of this Act. Such procedures shall include a requirement for submission of an application for award of a badge under that section with respect to service before the date of the enactment of this Act and the furnishing of such information as the Secretary may specify.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 365—EXPRESSING THE SENSE OF THE SENATE REGARDING THE DETENTION OF TIBETAN POLITICAL PRISONERS BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. BROWNBACK (for himself and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 365

Whereas, for more than 1,000 years, Tibet has maintained a sovereign national identity that is distinct from the national identity of China;

Whereas armed forces of the People's Republic of China invaded Tibet in 1949 and 1950, and have occupied it ever since;

Whereas, according to the Department of State and international human rights organizations, the Government of the People's Republic of China continues to commit widespread and well-documented human rights abuses in Tibet;

Whereas the People's Republic of China has yet to demonstrate its willingness to abide by internationally accepted standards of freedom of belief, expression, and association by repealing or amending laws and decrees that restrict those freedoms;

Whereas the Government of the People's Republic of China has detained hundreds of Tibetan nuns, monks, and lay persons as political prisoners for speaking out against China's occupation of Tibet and for their efforts to preserve Tibet's distinct national identity;

Whereas Phuntsog Nyidron was arrested on October 14, 1989, together with 5 other nuns, for participating in a peaceful protest against China's occupation of Tibet;

Whereas, on February 26, 2004, following a sustained international campaign on her behalf, the Government of the People's Republic of China released Phuntsog Nyidron from detention after she served more than 14 years of her 16-year sentence;

Whereas Tenzin Delek, a prominent Tibetan religious leader, and 3 other monks were arrested on April 7, 2002, during a nighttime raid on Jamyang Choekhorling monastery in Nyagchu County, Tibetan Autonomous Prefecture;

Whereas, following a closed trial and more than 8 months of incommunicado detention, Tenzin Delek and another Tibetan, Lobsang Dhondup, were convicted of inciting separatism and for their alleged involvement in a series of bombings on December 2, 2002;

Whereas Lobsang Dhondup was sentenced to death and Tenzin Delek was sentenced to death with a 2-year suspension;

Whereas the Government of the People's Republic of China promised senior officials of the United States and other governments that the cases of Lobsang Dhondup and Tenzin Delek would be subjected to a ''lengthy review'' by the Supreme People's Court prior to the death sentences being carried out;

Whereas the Supreme People's Court never carried out the promised review, and Lobsang Dhondup was executed on January 26, 2003;

Whereas the Government of the People's Republic of China has failed to produce any evidence that either Lobsang Dhondup or Tenzin Delek were involved in the crimes for which they were convicted, despite repeated requests from officials of the United States and other governments;

Whereas the Government of the People's Republic of China continues to imprison Tibetans for engaging in peaceful efforts to protest China's occupation of Tibet and preserve the Tibetan identity;

Whereas Tibetan political prisoners are routinely subjected to beatings, electric shock, solitary confinement, and other forms of torture and inhumane treatment while in Chinese custody;

Whereas the Government of the People's Republic of China continues to exert control over religious and cultural institutions in Tibet, abusing human rights through the torture, arbitrary arrest, and detention without fair or public trial of Tibetans who peacefully express their political or religious views or attempt to preserve the unique Tibetan identity; and

Whereas the Government of the People's Republic of China has paroled individual political prisoners for good behavior or for medical reasons in the face of strong international pressure, but has failed to make the systemic changes necessary to provide minimum standards of due process or protections for basic civil and political rights: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Government of the People's Republic of China is in violation of international human rights standards by detaining and mistreating Tibetans who engage in peaceful activities to protest China's occupation of Tibet or promote the preservation of a distinct Tibetan identity;

(2) sustained international pressure on the Government of the People's Republic of China is essential to improve the human rights situation in Tibet and secure the release of Tibetan political prisoners;

(3) the Government of the United States should—

(A) raise the cases of Tenzin Delek and other Tibetan political prisoners in every meeting with officials from the People's Republic of China; and

(B) work with other governments concerned about human rights in Tibet and China to encourage the release of Tibetan political prisoners and promote systemic improvement of human rights in Tibet and China; and

(4) the Government of the People's Republic of China should, as a gesture of goodwill and in order to promote human rights, immediately release all Tibetan political prisoners, including Tenzin Delek.

Mr. BROWNBACK. Mr. President, today I am introducing a resolution with my colleague, Senator BINGAMAN, calling on the Chinese Government to release all Tibetan political prisoners. One individual of concern is the prominent religious leader Tenzen Delek.

On April 7, 2002 Tenzen Delek and 3 other monks were arrested at their monastery. Subsequently, Tenzen was held incommunicado for 8 months and sentenced to death with a two years suspension after a closed door trial. Tenzen Delek and Lobsang Dhondup were both convicted of inciting separatism. Lobsang Dhondup was sentenced to death and executed on January 26, 2003, only one month after the sentence was handed down. Given the arbitrary and political nature of China's judiciary, Tenzen Delek could be put to death at any time. It has been 2 years since his April 7, 2002 arrest, and December 2004 will mark two years since he was sentenced to death.

Tenzen Delek moved to a monastery at the young age of 7, and by early adulthood he was active on issues of culture and religion and a dedicated supporter of the Dalai Lama and his teachings. More than likely, his community work and societal influence left him subject to the suspicion of the Chinese government. It is this sort of peaceful protest of China's occupation of Tibet that has landed so many other Tibetans in jail.

Mr. President, this resolution recognizes China's violation of internationally recognized human rights standards, and calls on the Chinese government to release Tenzen Delek and the

other Tibetans who remain in jail. Phuntsog Nyidron is a prominent Tibetan nun who was arrested in 1989 for her peaceful protest of the political situation and remained in jail for 14 years. Just this February she was freed after the House passed a similar resolution calling for her release. The International Campaign for Tibet estimates that there are 150 political prisoners in Tibet, and 75 percent of them are monks and nuns. Those unfortunate enough to find themselves in a Chinese prison are often subjected to physical and mental torture, and isolation. Many of them do not make it out of custody alive.

Mr. President, I hope my colleagues will join me in cosponsoring this resolution. For more than 50 years the Tibetan people have struggled to preserve their 1,000 year old sovereign national identity. The Chinese occupation that began in 1949 brought with it the subjugation of the Tibetan people at the hand of the People's Liberation Army, destruction of thousands of monasteries and shrines, a prohibition against practicing the Buddhist faith and Chinese migration—all aimed at destroying Tibetan culture, language and religion. The United States must confront continued Chinese repression of the practice of all faiths in China, and this resolution does exactly that.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3176. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3177. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3178. Mr. GREGG (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

SA 3179. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3180. Mr. GREGG (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

SA 3181. Ms. CANTWELL (for herself, Mr. HOLLINGS, Mrs . MURRAY, Mrs. CLINTON, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3182. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3170 submitted by Mr. GRAHAM of South Carolina and intended to be proposed to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3183. Mr. SMITH (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3184. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3185. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3186. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3187. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3188. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3189. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3190. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3191. Mr. KYL (for himself and Mr. CORNYN) proposed an amendment to the bill S. 2400, supra.

SA 3192. Mr. DOMENICI (for himself, Mrs. FEINSTEIN, Mr. LUGAR, Mr. BIDEN, Mr. ALEXANDER, Mr. BINGAMAN, Mr. REED, Mr. AKAKA, Mr. WARNER, Mr. LEVIN, and Mr. FEINGOLD) proposed an amendment to the bill S. 2400, supra.

SA 3193. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3194. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3195. Mrs. MURRAY (for herself and Mr. EDWARDS) submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3196. Mr. DURBIN (for himself, Ms. MIKULSKI, Ms. LANDRIEU, Mrs. MURRAY, Mr. DAYTON, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3197. Mr. DAYTON (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3198. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3199. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3200. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3201. Mr. KENNEDY (for himself, Mrs. MURRAY, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3202. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3203. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3204. Mrs. CLINTON (for herself, Mr. LEAHY, and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3205. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, supra.

SA 3206. Mr. WARNER proposed an amendment to the bill S. 2400, supra.

SA 3207. Mr. WARNER proposed an amendment to the bill S. 2400, supra.

SA 3208. Mr. WARNER proposed an amendment to the bill S. 2400, supra.

SA 3209. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, supra.

SA 3210. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, supra.

SA 3211. Mr. WARNER (for Mr. ALLARD) proposed an amendment to the bill S. 2400, supra.

SA 3212. Mr. LEVIN (for Mr. BYRD) proposed an amendment to the bill S. 2400, supra.

SA 3213. Mr. LEVIN (for Mr. REED) proposed an amendment to the bill S. 2400, supra.

SA 3214. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 2400, supra.

SA 3215. Mr. LEVIN (for Mr. SARBANES (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 2400, supra.

SA 3216. Mr. FRIST (for Mr. DOMENICI) proposed an amendment to the bill S. 1848, to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon.

SA 3217. Mr. FRIST (for Mr. LEAHY) proposed an amendment to the bill H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

SA 3218. Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 882, to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

SA 3219. Mr. FRIST (for Mr. INHOFE) proposed an amendment to the bill S. 1072, to

authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

SA 3220. Mr. LOTT (for himself, Mr. COCHRAN, Mr. CHAMBLISS, Ms. SNOWE, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table.

SA 3221. Mr. LOTT (for himself, Ms. SNOWE, Mr. COCHRAN, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3222. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3223. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3224. Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3176. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 9 and 10, insert the following:

SEC. 642. FULL SBP SURVIVOR BENEFITS FOR SURVIVING SPOUSES OVER AGE 62.

(a) PHASED INCREASE IN BASIC ANNUITY TO 55 PERCENT.—(1) Subsection (a)(1)(B)(i) of section 1451 of title 10, United States Code, is amended by striking ''35 percent of the base amount.'' and inserting ''the product of the base amount and the percent applicable for the month. The percent applicable for a month is 35 percent for months beginning before October 2005, 40 percent for months beginning after September 2005 and before April 2006, 45 percent for months beginning after March 2006 and before April 2007, 50 percent for months beginning after March 2007 and before April 2008, and 55 percent for months beginning after March 2008.''.

(2) Subsection (a)(2)(B)(i)(I) of such section is amended by striking ''35 percent'' and inserting ''the percent specified under paragraph (1)(B)(i) as being applicable for the month''.

(3) Subsection (c)(1)(B)(i) of such section is amended—

(A) by striking ''35 percent'' and inserting ''the applicable percent''; and

(B) by adding at the end the following: ''The percent applicable for a month under the preceding sentence is the percent specified under subsection (a)(1)(B)(i) as being applicable for the month.''.

(4) The heading for subsection (d)(2)(A) of such section is amended to read as follows: ''COMPUTATION OF ANNUITY.—''.

(b) PHASED ELIMINATION OF SUPPLEMENTAL ANNUITY.—(1) Section 1457(b) of title 10, United States Code, is amended—

(A) by striking ''5, 10, 15, or 20 percent'' and inserting ''the applicable percent''; and

(B) by inserting after the first sentence the following: ''The percent used for the computation shall be an even multiple of 5 percent and, whatever the percent specified in the election, may not exceed 20 percent for months beginning before October 2005, 15 percent for months beginning after September 2005 and before April 2006, 10 percent for months beginning after March 2006 and before April 2007, and 5 percent for months beginning after March 2007.''.

(2) Effective on April 1, 2008, chapter 73 of such title is amended—

(A) by striking subchapter III; and

(B) by striking the item relating to subchapter III in the table of subchapters at the beginning of that chapter.

(c) RECOMPUTATION OF ANNUITIES.—(1) Effective on the first day of each month referred to in paragraph (2)—

(A) each annuity under section 1450 of title 10, United States Code, that commenced before that month, is computed under a provision of section 1451 of that title amended by subsection (a), and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that provision, as so amended, had been used for the initial computation of the annuity; and

(B) each supplemental survivor annuity under section 1457 of such title that commenced before that month and is payable for that month shall be recomputed so as to be equal to the amount that would be in effect if the percent applicable for that month under that section, as amended by this section, had been used for the initial computation of the supplemental survivor annuity.

(2) The requirements for recomputation of annuities under paragraph (1) apply with respect to the following months:

(A) October 2005.

(B) April 2006.

(C) April 2007.

(D) April 2008.

(d) RECOMPUTATION OF RETIRED PAY REDUCTIONS FOR SUPPLEMENTAL SURVIVOR ANNUITIES.—The Secretary of Defense shall take such actions as are necessitated by the amendments made by subsection (b) and the requirements of subsection (c)(1)(B) to ensure that the reductions in retired pay under section 1460 of title 10, United States Code, are adjusted to achieve the objectives set forth in subsection (b) of that section.

(e) OPEN ENROLLMENT PERIOD FOR SURVIVOR BENEFIT PLAN COMMENCING OCTOBER 1, 2005.—(1)(A) An eligible retired or former member may elect to participate in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, during the open enrollment period specified in paragraph (5).

(B) An eligible retired or former member who elects under subparagraph (A) to participate in the Survivor Benefit Plan at the maximum level may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(C) For purposes of subparagraphs (A) and (B), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(i) is entitled to retired pay; or

(ii) would be entitled to retired pay under chapter 1223 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(D) A person making an election under subparagraph (A) by reason of eligibility under subparagraph (C)(i) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(E) A person making an election under subparagraph (A) by reason of eligibility under subparagraph (C)(ii) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(2) A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period, elect to—

(A) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(B) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(3)(A) A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code.

(B) Except as provided in subparagraph (C), a person is eligible to make an election under subparagraph (A) if on the day before the first day of the open enrollment period the person—

(i) is a participant in the Survivor Benefit Plan at the maximum level, or during the open enrollment period the person increases the level of such participation to the maximum level under paragraph (2) of this subsection; and

(ii) under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(C) A person is not eligible to make an election under subparagraph (A) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan is to be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section 1451(e). Any such election is irrevocable. A person making such a waiver may make an election under subparagraph (A) as in the case of any other participant in the Survivor Benefit Plan.

(4) An election under this subsection shall be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under paragraph (1) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code. Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(5) The open enrollment period under this section shall be the one-year period beginning on October 1, 2005.

(6) If a person making an election under this subsection dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if

the deceased person had died after the end of such two-year period.

(7) The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this subsection in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(8) The Secretary of Defense may require that the premium for a person making an election under paragraph (1)(A) or (2) include, in addition to the amount required under section 1452(a) of title 10, United States Code, an amount determined under regulations prescribed by the Secretary of Defense for the purposes of this subsection. Any such amount shall be stated as a percentage of the base amount of the person making the election and shall reflect the number of years that have elapsed since the person retired, but may not exceed 4.5 percent of that person's base amount.

(f) REPORT CONCERNING OPEN SEASON.—Not later than July 1, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the open season authorized by subsection (e) for the Survivor Benefit Plan. The report shall include the following:

(1) A description of the Secretary's plans for implementation of the open season.

(2) The Secretary's estimates of the costs associated with the open season, including any anticipated effect of the open season on the actuarial status of the Department of Defense Military Retirement Fund.

(3) Any recommendation by the Secretary for further legislative action.

SA 3177. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, after line 21, insert the following:

SEC. 844. APPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF ARMED FORCES UNIFORMS AND UNIFORM ITEMS WITH NONAPPROPRIATED FUNDS.

(a) APPLICABILITY.—Section 2533a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by striking subparagraph (B) and inserting the following:

''(B) clothing, including—

''(i) uniforms (including uniform headware) of the armed forces; and

''(ii) insignia, medals, other award appurtenances and decorations, other devices and accessories, belts, and belt buckles for armed forces uniforms;''; and

(2) in subsection (g), by inserting '', other than uniforms and uniform items described in clauses (i) and (ii) of subsection (b)(1)(B),'' after ''items''.

(b) EFFECTIVE DATE AND APPLICABILITY.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act and shall apply with respect to expenditures made on or after such effective date.

SA 3178. Mr. GREGG (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Project BioShield Act of 2004''.

SEC. 2. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT—AUTHORITIES.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319F the following section:

''SEC. 319F–1. AUTHORITY FOR USE OF CERTAIN PROCEDURES REGARDING QUALIFIED COUNTERMEASURE RESEARCH AND DEVELOPMENT ACTIVITIES.

''(a) IN GENERAL.—

''(1) AUTHORITY.—In conducting and supporting research and development activities regarding countermeasures under section 319F(h), the Secretary may conduct and support such activities in accordance with this section and, in consultation with the Director of the National Institutes of Health, as part of the program under section 446, if the activities concern qualified countermeasures.

''(2) QUALIFIED COUNTERMEASURE.—For purposes of this section, the term 'qualified countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to—

''(A) treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

''(B) treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in subparagraph (A).

''(3) INTERAGENCY COOPERATION.—

''(A) IN GENERAL.—In carrying out activities under this section, the Secretary is authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

''(B) LIMITATION.—An agreement or undertaking under this paragraph shall not authorize another agency to exercise the authorities provided by this section.

''(4) AVAILABILITY OF FACILITIES TO THE SECRETARY.—In any grant, contract, or cooperative agreement entered into under the authority provided in this section with respect to a biocontainment laboratory or other related or ancillary specialized research facility that the Secretary determines necessary for the purpose of performing, administering, or supporting qualified countermeasure research and development, the Secretary may provide that the facility that is the object of such grant, contract, or cooperative agreement shall be available as needed to the Secretary to respond to public health emergencies affecting national security.

''(5) TRANSFERS OF QUALIFIED COUNTERMEASURES.—Each agreement for an award of a grant, contract, or cooperative agreement under section 319F(h) for the development of a qualified countermeasure shall provide that the recipient of the award will comply with all applicable export-related controls with respect to such countermeasure.

''(b) EXPEDITED PROCUREMENT AUTHORITY.—

''(1) INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR QUALIFIED COUNTERMEASURE PROCUREMENTS.—

''(A) IN GENERAL.—For any procurement by the Secretary of property or services for use (as determined by the Secretary) in performing, administering, or supporting qualified countermeasure research or development activities under this section that the Secretary determines necessary to respond to pressing research and development needs under this section, the amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as applicable pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), shall be deemed to be $25,000,000 in the administration, with respect to such procurement, of—

''(i) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

''(ii) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

''(B) APPLICATION OF CERTAIN PROVISIONS.—Notwithstanding subparagraph (A) and the provision of law and regulations referred to in such subparagraph, each of the following provisions shall apply to procurements described in this paragraph to the same extent that such provisions would apply to such procurements in the absence of subparagraph (A):

''(i) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

''(ii) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57(a) and (b)).

''(iii) Section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) (relating to the examination of contractor records).

''(iv) Section 3131 of title 40, United States Code (relating to bonds of contractors of public buildings or works).

''(v) Subsection (a) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) (relating to contingent fees to middlemen).

''(vi) Section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

''(vii) Section 1354 of title 31, United States Code (relating to the limitation on the use of appropriated funds for contracts with entities not meeting veterans employment reporting requirements).

''(C) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements that are under this paragraph, including requirements with regard to documenting the justification for use of the authority in this paragraph with respect to the procurement involved.

''(D) AUTHORITY TO LIMIT COMPETITION.—In conducting a procurement under this paragraph, the Secretary may not use the authority provided for under subparagraph (A) to conduct a procurement on a basis other than full and open competition unless the Secretary determines that the mission of the BioShield Program under the Project BioShield Act of 2004 would be seriously impaired without such a limitation.

''(2) PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.—

''(A) IN GENERAL.—In using the authority provided in section 303(c)(1) of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)) to use procedures other than competitive procedures in the case of a procurement described in paragraph (1) of this subsection, the phrase 'available from only one responsible source' in such section 303(c)(1) shall be deemed to mean 'available from only one responsible source or only from a limited number of responsible sources'.

''(B) RELATION TO OTHER AUTHORITIES.—The authority under subparagraph (A) is in addition to any other authority to use procedures other than competitive procedures.

''(C) APPLICABLE GOVERNMENT-WIDE REGULATIONS.—The Secretary shall implement this paragraph in accordance with government-wide regulations implementing such section 303(c)(1) (including requirements that offers be solicited from as many potential sources as is practicable under the circumstances, that required notices be published, and that submitted offers be considered), as such regulations apply to procurements for which an agency has authority to use procedures other than competitive procedures when the property or services needed by the agency are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the agency.

''(3) INCREASED MICROPURCHASE THRESHOLD.—

''(A) IN GENERAL.—For a procurement described by paragraph (1), the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement.

''(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for purchases that are under this paragraph and that are greater than $2,500.

''(C) EXCEPTION TO PREFERENCE FOR PURCHASE CARD MECHANISM.—No provision of law establishing a preference for using a Government purchase card method for purchases shall apply to purchases that are under this paragraph and that are greater than $2,500.

''(4) REVIEW.—

''(A) REVIEW ALLOWED.—Notwithstanding subsection (f), section 1491 of title 28, United States Code, and section 3556 of title 31 of such Code, review of a contracting agency decision relating to a procurement described in paragraph (1) may be had only by filing a protest—

''(i) with a contracting agency; or

''(ii) with the Comptroller General under subchapter V of chapter 35 of title 31, United States Code.

''(B) OVERRIDE OF STAY OF CONTRACT AWARD OR PERFORMANCE COMMITTED TO AGENCY DISCRETION.—Notwithstanding section 1491 of title 28, United States Code, and section 3553 of title 31 of such Code, the following authorizations by the head of a procuring activity are committed to agency discretion:

''(i) An authorization under section 3553(c)(2) of title 31, United States Code, to award a contract for a procurement described in paragraph (1) of this subsection.

''(ii) An authorization under section 3553(d)(3)(C) of such title to perform a contract for a procurement described in paragraph (1) of this subsection.

''(c) AUTHORITY TO EXPEDITE PEER REVIEW.—

''(1) IN GENERAL.—The Secretary may, as the Secretary determines necessary to respond to pressing qualified countermeasure research and development needs under this section, employ such expedited peer review procedures (including consultation with appropriate scientific experts) as the Secretary, in consultation with the Director of NIH, deems appropriate to obtain assessment of scientific and technical merit and likely contribution to the field of qualified countermeasure research, in place of the peer review and advisory council review procedures that would be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494, as applicable to a grant, contract, or cooperative agreement—

''(A) that is for performing, administering, or supporting qualified countermeasure research and development activities; and

''(B) the amount of which is not greater than $1,500,000.

''(2) SUBSEQUENT PHASES OF RESEARCH.—The Secretary's determination of whether to employ expedited peer review with respect to any subsequent phases of a research grant, contract, or cooperative agreement under this section shall be determined without regard to the peer review procedures used for any prior peer review of that same grant, contract, or cooperative agreement. Nothing in the preceding sentence may be construed to impose any requirement with respect to peer review not otherwise required under any other law or regulation.

''(d) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—

''(1) IN GENERAL.—For the purpose of performing, administering, or supporting qualified countermeasure research and development activities, the Secretary may, as the Secretary determines necessary to respond to pressing qualified countermeasure research and development needs under this section, obtain by contract (in accordance with section 3109 of title 5, United States Code, but without regard to the limitations in such section on the period of service and on pay) the personal services of experts or consultants who have scientific or other professional qualifications, except that in no case shall the compensation provided to any such expert or consultant exceed the daily equivalent of the annual rate of compensation for the President.

''(2) FEDERAL TORT CLAIMS ACT COVERAGE.—

''(A) IN GENERAL.—A person carrying out a contract under paragraph (1), and an officer, employee, or governing board member of such person, shall, subject to a determination by the Secretary, be deemed to be an employee of the Department of Health and Human Services for purposes of claims under sections 1346(b) and 2672 of title 28, United States Code, for money damages for personal injury, including death, resulting from performance of functions under such contract.

''(B) EXCLUSIVITY OF REMEDY.—The remedy provided by subparagraph (A) shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the entity involved (person, officer, employee, or governing board member) for any act or omission within the scope of the Federal Tort Claims Act.

''(C) RECOURSE IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

''(i) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this paragraph, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover against any entity identified in subparagraph (B) for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any such entity to carry out any obligation or responsibility assumed by such entity under a contract with the United States or from any grossly negligent or reckless conduct or intentional or willful misconduct on the part of such entity.

''(ii) VENUE.—The United States may maintain an action under this subparagraph against such entity in the district court of the United States in which such entity resides or has its principal place of business.

''(3) INTERNAL CONTROLS TO BE INSTITUTED.—

''(A) IN GENERAL.—The Secretary shall institute appropriate internal controls for contracts under this subsection, including procedures for the Secretary to make a determination of whether a person, or an officer, employee, or governing board member of a person, is deemed to be an employee of the Department of Health and Human Services pursuant to paragraph (2).

''(B) DETERMINATION OF EMPLOYEE STATUS TO BE FINAL.—A determination by the Secretary under subparagraph (A) that a person, or an officer, employee, or governing board member of a person, is or is not deemed to be an employee of the Department of Health and Human Services shall be final and binding on the Secretary and the Attorney General and other parties to any civil action or proceeding.

''(4) NUMBER OF PERSONAL SERVICES CONTRACTS LIMITED.—The number of experts and consultants whose personal services are obtained under paragraph (1) shall not exceed 30 at any time.

''(e) STREAMLINED PERSONNEL AUTHORITY.—

''(1) IN GENERAL.—In addition to any other personnel authorities, the Secretary may, as the Secretary determines necessary to respond to pressing qualified countermeasure research and development needs under this section, without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, appoint professional and technical employees, not to exceed 30 such employees at any time, to positions in the National Institutes of Health to perform, administer, or support qualified countermeasure research and development activities in carrying out this section.

''(2) LIMITATIONS.—The authority provided for under paragraph (1) shall be exercised in a manner that—

''(A) recruits and appoints individuals based solely on their abilities, knowledge, and skills;

''(B) does not discriminate for or against any applicant for employment on any basis described in section 2302(b)(1) of title 5, United States Code;

''(C) does not allow an official to appoint an individual who is a relative (as defined in section 3110(a)(3) of such title) of such official;

''(D) does not discriminate for or against an individual because of the exercise of any activity described in paragraph (9) or (10) of section 2302(b) of such title; and

''(E) accords a preference, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of such title).

''(3) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for appointments under this subsection.

''(f) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions by the Secretary under the authority of this section are committed to agency discretion.''.

(b) TECHNICAL AMENDMENT.—Section 481A of the Public Health Service Act (42 U.S.C. 287a–2) is amended—

(1) in subsection (a)(1), by inserting ''or the Director of the National Institute of Allergy

and Infectious Diseases'' after ''Director of the Center'';

(2) in subsection (c)—

(A) in paragraph (1), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center''; and

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking ''subsection (i)'' and inserting ''subsection (i)(1)'';

(3) in subsection (d), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center'';

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center'';

(ii) in subparagraph (A), by inserting ''(or, in the case of the Institute, 75 percent)'' after ''50 percent''; and

(iii) in subparagraph (B), by inserting ''(or, in the case of the Institute, 75 percent)'' after ''40 percent'';

(B) in paragraph (2), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center''; and

(C) in paragraph (4), by inserting ''of the Center or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director'';

(5) in subsection (f)—

(A) in paragraph (1), by inserting ''in the case of an award by the Director of the Center,'' before ''the applicant''; and

(B) in paragraph (2), by inserting ''of the Center or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director''; and

(6) in subsection (i)—

(A) by striking ''APPROPRIATIONS.—For the purpose of carrying out this section,'' and inserting the following: ''APPROPRIATIONS.—

''(1) CENTER.—For the purpose of carrying out this section with respect to the Center,''; and

(B) by adding at the end the following:

''(2) NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES.—For the purpose of carrying out this section with respect to the National Institute of Allergy and Infectious Diseases, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.''.

(c) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS.—Section 2106 of the Public Health Service Act (42 U.S.C. 300aa–6) is amended—

(1) in subsection (a), by striking ''authorized to be appropriated'' and all that follows and inserting the following: ''authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.''; and

(2) in subsection (b), by striking ''authorized to be appropriated'' and all that follows and inserting the following: ''authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.''.

(d) TECHNICAL AMENDMENTS.—Section 319F of the Public Health Service Act (42 U.S.C. 247d–6) is amended—

(1) in subsection (a), by inserting ''the Secretary of Homeland Security,'' after ''Management Agency,''; and

(2) in subsection (h)(4)(B), by striking ''to diagnose conditions'' and inserting ''to treat, identify, or prevent conditions''.

(e) RULE OF CONSTRUCTION.—Nothing in this section has any legal effect on sections 302(2), 302(4), 304(a), or 304(b) of the Homeland Security Act of 2002.

SEC. 3. BIOMEDICAL COUNTERMEASURES PROCUREMENT.

(a) ADDITIONAL AUTHORITY REGARDING STRATEGIC NATIONAL STOCKPILE.—

(1) TRANSFER OF PROGRAM.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (116 Stat. 611; 42 U.S.C. 300hh–12) is transferred from such Act to the Public Health Service Act, is redesignated as section 319F–2, and is inserted after section 319F–1 of the Public Health Service Act (as added by section 2 of this Act).

(2) ADDITIONAL AUTHORITY.—Section 319F–2 of the Public Health Service Act, as added by paragraph (1), is amended to read as follows:

''SEC. 319F–2. STRATEGIC NATIONAL STOCKPILE.

''(a) STRATEGIC NATIONAL STOCKPILE.—

''(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Homeland Security (referred to in this section as the 'Homeland Security Secretary'), shall maintain a stockpile or stockpiles of drugs, vaccines and other biological products, medical devices, and other supplies in such numbers, types, and amounts as are determined by the Secretary to be appropriate and practicable, taking into account other available sources, to provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency.

''(2) PROCEDURES.—The Secretary, in managing the stockpile under paragraph (1), shall—

''(A) consult with the working group under section 319F(a);

''(B) ensure that adequate procedures are followed with respect to such stockpile for inventory management and accounting, and for the physical security of the stockpile;

''(C) in consultation with Federal, State, and local officials, take into consideration the timing and location of special events;

''(D) review and revise, as appropriate, the contents of the stockpile on a regular basis to ensure that emerging threats, advanced technologies, and new countermeasures are adequately considered;

''(E) devise plans for the effective and timely supply-chain management of the stockpile, in consultation with appropriate Federal, State and local agencies, and the public and private health care infrastructure;

''(F) deploy the stockpile as required by the Secretary of Homeland Security to respond to an actual or potential emergency;

''(G) deploy the stockpile at the discretion of the Secretary to respond to an actual or potential public health emergency or other situation in which deployment is necessary to protect the public health or safety; and

''(H) ensure the adequate physical security of the stockpile.

''(b) SMALLPOX VACCINE DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary shall award contracts, enter into cooperative agreements, or carry out such other activities as may reasonably be required in order to ensure that the stockpile under subsection (a) includes an amount of vaccine against smallpox as determined by such Secretary to be sufficient to meet the health security needs of the United States.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the private distribution, purchase, or sale of vaccines from sources other than the stockpile described in subsection (a).

''(c) ADDITIONAL AUTHORITY REGARDING PROCUREMENT OF CERTAIN BIOMEDICAL COUNTERMEASURES; AVAILABILITY OF SPECIAL RESERVE FUND.—

''(1) IN GENERAL.—

''(A) USE OF FUND.—A security countermeasure may, in accordance with this subsection, be procured with amounts in the special reserve fund under paragraph (10).

''(B) SECURITY COUNTERMEASURE.—For purposes of this subsection, the term 'security countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that—

''(i)(I) the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent identified as a material threat under paragraph (2)(A)(ii), or to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device against such an agent;

''(II) the Secretary determines under paragraph (2)(B)(ii) to be a necessary countermeasure; and

''(III)(aa) is approved or cleared under chapter V of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act; or

''(bb) is a countermeasure for which the Secretary determines that sufficient and satisfactory clinical experience or research data (including data, if available, from pre-clinical and clinical trials) support a reasonable conclusion that the countermeasure will qualify for approval or licensing within eight years after the date of a determination under paragraph (5); or

''(ii) is authorized for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act.

''(2) DETERMINATION OF MATERIAL THREATS.—

''(A) MATERIAL THREAT.—The Homeland Security Secretary, in consultation with the Secretary and the heads of other agencies as appropriate, shall on an ongoing basis—

''(i) assess current and emerging threats of chemical, biological, radiological, and nuclear agents; and

''(ii) determine which of such agents present a material threat against the United States population sufficient to affect national security.

''(B) PUBLIC HEALTH IMPACT; NECESSARY COUNTERMEASURES.—The Secretary shall on an ongoing basis—

''(i) assess the potential public health consequences for the United States population of exposure to agents identified under subparagraph (A)(ii); and

''(ii) determine, on the basis of such assessment, the agents identified under subparagraph (A)(ii) for which countermeasures are necessary to protect the public health.

''(C) NOTICE TO CONGRESS.—The Secretary and the Homeland Security Secretary shall promptly notify the designated congressional committees (as defined in paragraph (10)) that a determination has been made pursuant to subparagraph (A) or (B).

''(D) ASSURING ACCESS TO THREAT INFORMATION.—In making the assessment and determination required under subparagraph (A), the Homeland Security Secretary shall use all relevant information to which such Secretary is entitled under section 202 of the Homeland Security Act of 2002, including but not limited to information, regardless of its level of classification, relating to current and emerging threats of chemical, biological, radiological, and nuclear agents.

''(3) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES.—The

Secretary, in consultation with the Homeland Security Secretary, shall assess on an ongoing basis the availability and appropriateness of specific countermeasures to address specific threats identified under paragraph (2).

''(4) CALL FOR DEVELOPMENT OF COUNTERMEASURES; COMMITMENT FOR RECOMMENDATION FOR PROCUREMENT.—

''(A) PROPOSAL TO THE PRESIDENT.—If, pursuant to an assessment under paragraph (3), the Homeland Security Secretary and the Secretary make a determination that a countermeasure would be appropriate but is either currently unavailable for procurement as a security countermeasure or is approved, licensed, or cleared only for alternative uses, such Secretaries may jointly submit to the President a proposal to—

''(i) issue a call for the development of such countermeasure; and

''(ii) make a commitment that, upon the first development of such countermeasure that meets the conditions for procurement under paragraph (5), the Secretaries will, based in part on information obtained pursuant to such call, make a recommendation under paragraph (6) that the special reserve fund under paragraph (10) be made available for the procurement of such countermeasure.

''(B) COUNTERMEASURE SPECIFICATIONS.—The Homeland Security Secretary and the Secretary shall, to the extent practicable, include in the proposal under subparagraph (A)—

''(i) estimated quantity of purchase (in the form of number of doses or number of effective courses of treatments regardless of dosage form);

''(ii) necessary measures of minimum safety and effectiveness;

''(iii) estimated price for each dose or effective course of treatment regardless of dosage form; and

''(iv) other information that may be necessary to encourage and facilitate research, development, and manufacture of the countermeasure or to provide specifications for the countermeasure.

''(C) PRESIDENTIAL APPROVAL.—If the President approves a proposal under subparagraph (A), the Homeland Security Secretary and the Secretary shall make known to persons who may respond to a call for the countermeasure involved—

''(i) the call for the countermeasure;

''(ii) specifications for the countermeasure under subparagraph (B); and

''(iii) the commitment described in subparagraph (A)(ii).

''(5) SECRETARY'S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR FUNDING FROM SPECIAL RESERVE FUND.—

''(A) IN GENERAL.—The Secretary, in accordance with the provisions of this paragraph, shall identify specific security countermeasures that the Secretary determines, in consultation with the Homeland Security Secretary, to be appropriate for inclusion in the stockpile under subsection (a) pursuant to procurements made with amounts in the special reserve fund under paragraph (10) (referred to in this subsection individually as a 'procurement under this subsection').

''(B) REQUIREMENTS.—In making a determination under subparagraph (A) with respect to a security countermeasure, the Secretary shall determine and consider the following:

''(i) The quantities of the product that will be needed to meet the needs of the stockpile.

''(ii) The feasibility of production and delivery within eight years of sufficient quantities of the product.

''(iii) Whether there is a lack of a significant commercial market for the product at the time of procurement, other than as a security countermeasure.

''(6) RECOMMENDATION FOR PRESIDENT'S APPROVAL.—

''(A) RECOMMENDATION FOR PROCUREMENT.—In the case of a security countermeasure that the Secretary has, in accordance with paragraphs (3) and (5), determined to be appropriate for procurement under this subsection, the Homeland Security Secretary and the Secretary shall jointly submit to the President, in coordination with the Director of the Office of Management and Budget, a recommendation that the special reserve fund under paragraph (10) be made available for the procurement of such countermeasure.

''(B) PRESIDENTIAL APPROVAL.—The special reserve fund under paragraph (10) is available for a procurement of a security countermeasure only if the President has approved a recommendation under subparagraph (A) regarding the countermeasure.

''(C) NOTICE TO DESIGNATED CONGRESSIONAL COMMITTEES.—The Secretary and the Homeland Security Secretary shall notify the designated congressional committees of each decision of the President to approve a recommendation under subparagraph (A). Such notice shall include an explanation of the decision to make available the special reserve fund under paragraph (10) for procurement of such a countermeasure, including, where available, the number of, nature of, and other information concerning potential suppliers of such countermeasure, and whether other potential suppliers of the same or similar countermeasures were considered and rejected for procurement under this section and the reasons therefor.

''(D) SUBSEQUENT SPECIFIC COUNTERMEASURES.—Procurement under this subsection of a security countermeasure for a particular purpose does not preclude the subsequent procurement under this subsection of any other security countermeasure for such purpose if the Secretary has determined under paragraph (5)(A) that such countermeasure is appropriate for inclusion in the stockpile and if, as determined by the Secretary, such countermeasure provides improved safety or effectiveness, or for other reasons enhances preparedness to respond to threats of use of a biological, chemical, radiological, or nuclear agent. Such a determination by the Secretary is committed to agency discretion.

''(E) RULE OF CONSTRUCTION.—Recommendations and approvals under this paragraph apply solely to determinations that the special reserve fund under paragraph (10) will be made available for a procurement of a security countermeasure, and not to the substance of contracts for such procurement or other matters relating to awards of such contracts.

''(7) PROCUREMENT.—

''(A) IN GENERAL.—For purposes of a procurement under this subsection that is approved by the President under paragraph (6), the Homeland Security Secretary and the Secretary shall have responsibilities in accordance with subparagraphs (B) and (C).

''(B) INTERAGENCY AGREEMENT; COSTS.—

''(i) INTERAGENCY AGREEMENT.—The Homeland Security Secretary shall enter into an agreement with the Secretary for procurement of a security countermeasure in accordance with the provisions of this paragraph. The special reserve fund under paragraph (10) shall be available for payments made by the Secretary to a vendor for such procurement.

''(ii) OTHER COSTS.—The actual costs to the Secretary under this section, other than the costs described in clause (i), shall be paid from the appropriation provided for under subsection (f)(1).

''(C) PROCUREMENT.—

''(i) IN GENERAL.—The Secretary shall be responsible for—

''(I) arranging for procurement of a security countermeasure, including negotiating terms (including quantity, production schedule, and price) of, and entering into, contracts and cooperative agreements, and for carrying out such other activities as may reasonably be required, in accordance with the provisions of this subparagraph; and

''(II) promulgating such regulations as the Secretary determines necessary to implement the provisions of this subsection.

''(ii) CONTRACT TERMS.—A contract for procurements under this subsection shall (or, as specified below, may) include the following terms:

''(I) PAYMENT CONDITIONED ON DELIVERY.—The contract shall provide that no payment may be made until delivery has been made of a portion, acceptable to the Secretary, of the total number of units contracted for, except that, notwithstanding any other provision of law, the contract may provide that, if the Secretary determines (in the Secretary's discretion) that an advance payment is necessary to ensure success of a project, the Secretary may pay an amount, not to exceed 10 percent of the contract amount, in advance of delivery. The contract shall provide that such advance payment is required to be repaid if there is a failure to perform by the vendor under the contract. Nothing in this subclause may be construed as affecting rights of vendors under provisions of law or regulation (including the Federal Acquisition Regulation) relating to termination of contracts for the convenience of the Government.

''(II) DISCOUNTED PAYMENT.—The contract may provide for a discounted price per unit of a product that is not licensed, cleared, or approved as described in paragraph (1)(B)(i)(III)(aa) at the time of delivery, and may provide for payment of an additional amount per unit if the product becomes so licensed, cleared, or approved before the expiration date of the contract (including an additional amount per unit of product delivered before the effective date of such licensing, clearance, or approval).

''(III) CONTRACT DURATION.—The contract shall be for a period not to exceed five years, except that, in first awarding the contract, the Secretary may provide for a longer duration, not exceeding eight years, if the Secretary determines that complexities or other difficulties in performance under the contract justify such a period. The contract shall be renewable for additional periods, none of which shall exceed five years.

''(IV) STORAGE BY VENDOR.—The contract may provide that the vendor will provide storage for stocks of a product delivered to the ownership of the Federal Government under the contract, for such period and under such terms and conditions as the Secretary may specify, and in such case amounts from the special reserve fund under paragraph (10) shall be available for costs of shipping, handling, storage, and related costs for such product.

''(V) PRODUCT APPROVAL.—The contract shall provide that the vendor seek approval, clearance, or licensing of the product from the Secretary; for a timetable for the development of data and other information to support such approval, clearance, or licensing; and that the Secretary may waive part or all of this contract term on request of the vendor or on the initiative of the Secretary.

''(VI) NON-STOCKPILE TRANSFERS OF SECURITY COUNTERMEASURES.—The contract shall provide that the vendor will comply with all applicable export-related controls with respect to such countermeasure.

''(iii) AVAILABILITY OF SIMPLIFIED ACQUISITION PROCEDURES.—

''(I) IN GENERAL.—If the Secretary determines that there is a pressing need for a procurement of a specific countermeasure, the amount of the procurement under this subsection shall be deemed to be below the threshold amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), for purposes of application to such procurement, pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), of—

''(aa) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

''(bb) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

''(II) APPLICATION OF CERTAIN PROVISIONS.—Notwithstanding subclause (I) and the provision of law and regulations referred to in such clause, each of the following provisions shall apply to procurements described in this clause to the same extent that such provisions would apply to such procurements in the absence of subclause (I):

''(aa) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

''(bb) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57(a) and (b)).

''(cc) Section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) (relating to the examination of contractor records).

''(dd) Section 3131 of title 40, United States Code (relating to bonds of contractors of public buildings or works).

''(ee) Subsection (a) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) (relating to contingent fees to middlemen).

''(ff) Section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

''(gg) Section 1354 of title 31, United States Code (relating to the limitation on the use of appropriated funds for contracts with entities not meeting veterans employment reporting requirements).

''(III) INTERNAL CONTROLS TO BE ESTABLISHED.—The Secretary shall establish appropriate internal controls for procurements made under this clause, including requirements with respect to documentation of the justification for the use of the authority provided under this paragraph with respect to the procurement involved.

''(IV) AUTHORITY TO LIMIT COMPETITION.—In conducting a procurement under this subparagraph, the Secretary may not use the authority provided for under subclause (I) to conduct a procurement on a basis other than full and open competition unless the Secretary determines that the mission of the BioShield Program under the Project BioShield Act of 2004 would be seriously impaired without such a limitation.

''(iv) PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.—

''(I) IN GENERAL.—In using the authority provided in section 303(c)(1) of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)) to use procedures other than competitive procedures in the case of a procurement under this subsection, the phrase 'available from only one responsible source' in such section 303(c)(1) shall be deemed to mean 'available from only one responsible source or only from a limited number of responsible sources'.

''(II) RELATION TO OTHER AUTHORITIES.—The authority under subclause (I) is in addition to any other authority to use procedures other than competitive procedures.

''(III) APPLICABLE GOVERNMENT-WIDE REGULATIONS.—The Secretary shall implement this clause in accordance with government-wide regulations implementing such section 303(c)(1) (including requirements that offers be solicited from as many potential sources as is practicable under the circumstances, that required notices be published, and that submitted offers be considered), as such regulations apply to procurements for which an agency has authority to use procedures other than competitive procedures when the property or services needed by the agency are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the agency.

''(v) PREMIUM PROVISION IN MULTIPLE AWARD CONTRACTS.—

''(I) IN GENERAL.—If, under this subsection, the Secretary enters into contracts with more than one vendor to procure a security countermeasure, such Secretary may, notwithstanding any other provision of law, include in each of such contracts a provision that—

''(aa) identifies an increment of the total quantity of security countermeasure required, whether by percentage or by numbers of units; and

''(bb) promises to pay one or more specified premiums based on the priority of such vendors' production and delivery of the increment identified under item (aa), in accordance with the terms and conditions of the contract.

''(II) DETERMINATION OF GOVERNMENT'S REQUIREMENT NOT REVIEWABLE.—If the Secretary includes in each of a set of contracts a provision as described in subclause (I), such Secretary's determination of the total quantity of security countermeasure required, and any amendment of such determination, is committed to agency discretion.

''(vi) EXTENSION OF CLOSING DATE FOR RECEIPT OF PROPOSALS NOT REVIEWABLE.—A decision by the Secretary to extend the closing date for receipt of proposals for a procurement under this subsection is committed to agency discretion.

''(vii) LIMITING COMPETITION TO SOURCES RESPONDING TO REQUEST FOR INFORMATION.—In conducting a procurement under this subsection, the Secretary may exclude a source that has not responded to a request for information under section 303A(a)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(a)(1)(B)) if such request has given notice that the Secretary may so exclude such a source.

''(8) INTERAGENCY COOPERATION.—

''(A) IN GENERAL.—In carrying out activities under this section, the Homeland Security Secretary and the Secretary are authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

''(B) LIMITATION.—An agreement or undertaking under this paragraph shall not authorize another agency to exercise the authorities provided by this section to the Homeland Security Secretary or to the Secretary.

''(9) RESTRICTIONS ON USE OF FUNDS.—Amounts in the special reserve fund under paragraph (10) shall not be used to pay—

''(A) costs for the purchase of vaccines under procurement contracts entered into before the date of the enactment of the Project BioShield Act of 2004; or

''(B) costs other than payments made by the Secretary to a vendor for a procurement of a security countermeasure under paragraph (7).

''(10) DEFINITIONS.—

''(A) SPECIAL RESERVE FUND.—For purposes of this subsection, the term 'special reserve fund' has the meaning given such term in section 510 of the Homeland Security Act of 2002.

''(B) DESIGNATED CONGRESSIONAL COMMITTEES.—For purposes of this section, the term 'designated congressional committees' means the following committees of the Congress:

''(i) In the House of Representatives: the Committee on Energy and Commerce, the Committee on Appropriations, the Committee on Government Reform, and the Select Committee on Homeland Security (or any successor to the Select Committee).

''(ii) In the Senate: the appropriate committees.

''(d) DISCLOSURES.—No Federal agency shall disclose under section 552 of title 5, United States Code, any information identifying the location at which materials in the stockpile under subsection (a) are stored.

''(e) DEFINITION.—For purposes of subsection (a), the term 'stockpile' includes—

''(1) a physical accumulation (at one or more locations) of the supplies described in subsection (a); or

''(2) a contractual agreement between the Secretary and a vendor or vendors under which such vendor or vendors agree to provide to such Secretary supplies described in subsection (a).

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) STRATEGIC NATIONAL STOCKPILE.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $640,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006. Such authorization is in addition to amounts in the special reserve fund referred to in subsection (c)(10)(A).

''(2) SMALLPOX VACCINE DEVELOPMENT.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $509,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

(b) AMENDMENTS TO HOMELAND SECURITY ACT OF 2002.—Title V of the Homeland Security Act of 2002 (116 Stat. 2212; 6 U.S.C. 311 et seq.) is amended—

(1) in section 502(3) (6 U.S.C. 312(3))—

(A) in subparagraph (B), by striking ''the Strategic National Stockpile,''; and

(B) in subparagraph (D), by inserting '', including requiring deployment of the Strategic National Stockpile,'' after ''resources''; and

(2) by adding at the end the following:

''SEC. 510. PROCUREMENT OF SECURITY COUNTERMEASURES FOR STRATEGIC NATIONAL STOCKPILE.

''(a) AUTHORIZATION OF APPROPRIATIONS.—For the procurement of security countermeasures under section 319F–2(c) of the Public Health Service Act (referred to in this section as the 'security countermeasures program'), there is authorized to be appropriated up to $5,593,000,000 for the fiscal years 2004 through 2013. Of the amounts appropriated under the preceding sentence, not to exceed $3,418,000,000 may be obligated during the fiscal years 2004 through 2008, of which not to exceed $890,000,000 may be obligated during fiscal year 2004.

''(b) SPECIAL RESERVE FUND.—For purposes of the security countermeasures program, the term 'special reserve fund' means the 'Biodefense Countermeasures' appropriations account or any other appropriation made under subsection (a).

''(c) AVAILABILITY.—Amounts appropriated under subsection (a) become available for a procurement under the security countermeasures program only upon the approval by the President of such availability for the procurement in accordance with paragraph (6)(B) of such program.

''(d) RELATED AUTHORIZATIONS OF APPROPRIATIONS.—

''(1) THREAT ASSESSMENT CAPABILITIES.—For the purpose of carrying out the responsibilities of the Secretary for terror threat assessment under the security countermeasures program, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006, for the hiring of professional personnel within the Directorate for Information Analysis and Infrastructure Protection, who shall be analysts responsible for chemical, biological, radiological, and nuclear threat assessment (including but not limited to analysis of chemical, biological, radiological, and nuclear agents, the means by which such agents could be weaponized or used in a terrorist attack, and the capabilities, plans, and intentions of terrorists and other non-state actors who may have or acquire such agents). All such analysts shall meet the applicable standards and qualifications for the performance of intelligence activities promulgated by the Director of Central Intelligence pursuant to section 104 of the National Security Act of 1947.

''(2) INTELLIGENCE SHARING INFRASTRUCTURE.—For the purpose of carrying out the acquisition and deployment of secure facilities (including information technology and physical infrastructure, whether mobile and temporary, or permanent) sufficient to permit the Secretary to receive, not later than 180 days after the date of enactment of the Project BioShield Act of 2004, all classified information and products to which the Under Secretary for Information Analysis and Infrastructure Protection is entitled under subtitle A of title II, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.''.

(c) STOCKPILE FUNCTIONS TRANSFERRED.—

(1) IN GENERAL.—Except as provided in paragraph (2), there shall be transferred to the Secretary of Health and Human Services the functions, personnel, assets, unexpended balances, and liabilities of the Strategic National Stockpile, including the functions of the Secretary of Homeland Security relating thereto.

(2) EXCEPTIONS.—

(A) FUNCTIONS.—The transfer of functions pursuant to paragraph (1) shall not include such functions as are explicitly assigned to the Secretary of Homeland Security by this Act (including the amendments made by this Act).

(B) ASSETS AND UNEXPENDED BALANCES.—The transfer of assets and unexpended balances pursuant to paragraph (1) shall not include the funds appropriated under the heading ''BIODEFENSE COUNTERMEASURES'' in the Department of Homeland Security Appropriations Act, 2004 (Public law 108-90).

(3) CONFORMING AMENDMENT.—Section 503 of the Homeland Security Act of 2002 (6 U.S.C. 313) is amended by striking paragraph (6).

SEC. 4. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

(a) IN GENERAL.—Section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3) is amended to read as follows:

''SEC. 564. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

''(a) IN GENERAL.—

''(1) EMERGENCY USES.—Notwithstanding sections 505, 510(k), and 515 of this Act and section 351 of the Public Health Service Act, and subject to the provisions of this section, the Secretary may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in this section as an 'emergency use').

''(2) APPROVAL STATUS OF PRODUCT.—An authorization under paragraph (1) may authorize an emergency use of a product that—

''(A) is not approved, licensed, or cleared for commercial distribution under a provision of law referred to in such paragraph (referred to in this section as an 'unapproved product'); or

''(B) is approved, licensed, or cleared under such a provision, but which use is not under such provision an approved, licensed, or cleared use of the product (referred to in this section as an 'unapproved use of an approved product').

''(3) RELATION TO OTHER USES.—An emergency use authorized under paragraph (1) for a product is in addition to any other use that is authorized for the product under a provision of law referred to in such paragraph.

''(4) DEFINITIONS.—For purposes of this section:

''(A) The term 'biological product' has the meaning given such term in section 351 of the Public Health Service Act.

''(B) The term 'emergency use' has the meaning indicated for such term in paragraph (1).

''(C) The term 'product' means a drug, device, or biological product.

''(D) The term 'unapproved product' has the meaning indicated for such term in paragraph (2)(A).

''(E) The term 'unapproved use of an approved product' has the meaning indicated for such term in paragraph (2)(B).

''(b) DECLARATION OF EMERGENCY.—

''(1) IN GENERAL.—The Secretary may declare an emergency justifying the authorization under this subsection for a product on the basis of—

''(A) a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a specified biological, chemical, radiological, or nuclear agent or agents;

''(B) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to United States military forces of attack with a specified biological, chemical, radiological, or nuclear agent or agents; or

''(C) a determination by the Secretary of a public health emergency under section 319 of the Public Health Service Act that affects, or has a significant potential to affect, national security, and that involves a specified biological, chemical, radiological, or nuclear agent or agents, or a specified disease or condition that may be attributable to such agent or agents.

''(2) TERMINATION OF DECLARATION.—

''(A) IN GENERAL.—A declaration under this subsection shall terminate upon the earlier of—

''(i) a determination by the Secretary, in consultation as appropriate with the Secretary of Homeland Security or the Secretary of Defense, that the circumstances described in paragraph (1) have ceased to exist; or

''(ii) the expiration of the one-year period beginning on the date on which the declaration is made.

''(B) RENEWAL.—Notwithstanding subparagraph (A), the Secretary may renew a declaration under this subsection, and this paragraph shall apply to any such renewal.

''(C) DISPOSITION OF PRODUCT.—If an authorization under this section with respect to an unapproved product ceases to be effective as a result of a termination under subparagraph (A) of this paragraph, the Secretary shall consult with the manufacturer of such product with respect to the appropriate disposition of the product.

''(3) ADVANCE NOTICE OF TERMINATION.—The Secretary shall provide advance notice that a declaration under this subsection will be terminated. The period of advance notice shall be a period reasonably determined to provide—

''(A) in the case of an unapproved product, a sufficient period for disposition of the product, including the return of such product (except such quantities of product as are necessary to provide for continued use consistent with subsection (f)(2)) to the manufacturer (in the case of a manufacturer that chooses to have such product returned); and

''(B) in the case of an unapproved use of an approved product, a sufficient period for the disposition of any labeling, or any information under subsection (e)(2)(B)(ii), as the case may be, that was provided with respect to the emergency use involved.

''(4) PUBLICATION.—The Secretary shall promptly publish in the Federal Register each declaration, determination, advance notice of termination, and renewal under this subsection.

''(c) CRITERIA FOR ISSUANCE OF AUTHORIZATION.—The Secretary may issue an authorization under this section with respect to the emergency use of a product only if, after consultation with the Director of the National Institutes of Health and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the circumstances of the emergency involved), the Secretary concludes—

''(1) that an agent specified in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

''(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

''(A) the product may be effective in diagnosing, treating, or preventing—

''(i) such disease or condition; or

''(ii) a serious or life-threatening disease or condition caused by a product authorized under this section, approved or cleared under this Act, or licensed under section 351 of the Public Health Service Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

''(B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product;

''(3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and

''(4) that such other criteria as the Secretary may by regulation prescribe are satisfied.

''(d) SCOPE OF AUTHORIZATION.—An authorization of a product under this section shall state—

''(1) each disease or condition that the product may be used to diagnose, prevent, or treat within the scope of the authorization;

''(2) the Secretary's conclusions, made under subsection (c)(2)(B), that the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product; and

''(3) the Secretary's conclusions, made under subsection (c), concerning the safety and potential effectiveness of the product in diagnosing, preventing, or treating such diseases or conditions, including an assessment of the available scientific evidence.

''(e) CONDITIONS OF AUTHORIZATION.—

''(1) UNAPPROVED PRODUCT.—

''(A) REQUIRED CONDITIONS.—With respect to the emergency use of an unapproved product, the Secretary, to the extent practicable

given the circumstances of the emergency, shall, for a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:

''(i) Appropriate conditions designed to ensure that health care professionals administering the product are informed—

''(I) that the Secretary has authorized the emergency use of the product;

''(II) of the significant known and potential benefits and risks of the emergency use of the product, and of the extent to which such benefits and risks are unknown; and

''(III) of the alternatives to the product that are available, and of their benefits and risks.

''(ii) Appropriate conditions designed to ensure that individuals to whom the product is administered are informed—

''(I) that the Secretary has authorized the emergency use of the product;

''(II) of the significant known and potential benefits and risks of such use, and of the extent to which such benefits and risks are unknown; and

''(III) of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

''(iii) Appropriate conditions for the monitoring and reporting of adverse events associated with the emergency use of the product.

''(iv) For manufacturers of the product, appropriate conditions concerning recordkeeping and reporting, including records access by the Secretary, with respect to the emergency use of the product.

''(B) AUTHORITY FOR ADDITIONAL CONDITIONS.—With respect to the emergency use of an unapproved product, the Secretary may, for a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:

''(i) Appropriate conditions on which entities may distribute the product with respect to the emergency use of the product (including limitation to distribution by government entities), and on how distribution is to be performed.

''(ii) Appropriate conditions on who may administer the product with respect to the emergency use of the product, and on the categories of individuals to whom, and the circumstances under which, the product may be administered with respect to such use.

''(iii) Appropriate conditions with respect to the collection and analysis of information, during the period when the authorization is in effect, concerning the safety and effectiveness of the product with respect to the emergency use of such product.

''(iv) For persons other than manufacturers of the product, appropriate conditions concerning recordkeeping and reporting, including records access by the Secretary, with respect to the emergency use of the product.

''(2) UNAPPROVED USE.—With respect to the emergency use of a product that is an unapproved use of an approved product:

''(A) For a manufacturer of the product who carries out any activity for which the authorization is issued, the Secretary shall, to the extent practicable given the circumstances of the emergency, establish conditions described in clauses (i) and (ii) of paragraph (1)(A), and may establish conditions described in clauses (iii) and (iv) of such paragraph.

''(B)(i) If the authorization under this section regarding the emergency use authorizes a change in the labeling of the product, but the manufacturer of the product chooses not to make such change, such authorization may not authorize distributors of the product or any other person to alter or obscure the labeling provided by the manufacturer.

''(ii) In the circumstances described in clause (i), for a person who does not manufacture the product and who chooses to act under this clause, an authorization under this section regarding the emergency use shall, to the extent practicable given the circumstances of the emergency, authorize such person to provide appropriate information with respect to such product in addition to the labeling provided by the manufacturer, subject to compliance with clause (i). While the authorization under this section is effective, such additional information shall not be considered labeling for purposes of section 502.

''(C) The Secretary may establish with respect to the distribution and administration of the product for the unapproved use conditions no more restrictive than those established by the Secretary with respect to the distribution and administration of the product for the approved use.

''(3) GOOD MANUFACTURING PRACTICE.—With respect to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), the Secretary may waive or limit, to the extent appropriate given the circumstances of the emergency, requirements regarding current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act, including such requirements established under section 501.

''(4) ADVERTISING.—The Secretary may establish conditions on advertisements and other promotional descriptive printed matter that relate to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), including, as appropriate—

''(A) with respect to drugs and biological products, requirements applicable to prescription drugs pursuant to section 502(n); or

''(B) with respect to devices, requirements applicable to restricted devices pursuant to section 502(r).

''(f) DURATION OF AUTHORIZATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an authorization under this section shall be effective until the earlier of the termination of the declaration under subsection (b) or a revocation under subsection (g).

''(2) CONTINUED USE AFTER END OF EFFECTIVE PERIOD.—Notwithstanding the termination of the declaration under subsection (b) or a revocation under subsection (g), an authorization shall continue to be effective to provide for continued use of an unapproved product with respect to a patient to whom it was administered during the period described by paragraph (1), to the extent found necessary by such patient's attending physician.

''(g) REVOCATION OF AUTHORIZATION.—

''(1) REVIEW.—The Secretary shall periodically review the circumstances and the appropriateness of an authorization under this section.

''(2) REVOCATION.—The Secretary may revoke an authorization under this section if the criteria under subsection (c) for issuance of such authorization are no longer met or other circumstances make such revocation appropriate to protect the public health or safety.

''(h) PUBLICATION; CONFIDENTIAL INFORMATION.—

''(1) PUBLICATION.—The Secretary shall promptly publish in the Federal Register a notice of each authorization, and each termination or revocation of an authorization under this section, and an explanation of the reasons therefor (which may include a summary of data or information that has been submitted to the Secretary in an application under section 505(i) or section 520(g), even if such summary may indirectly reveal the existence of such application).

''(2) CONFIDENTIAL INFORMATION.—Nothing in this section alters or amends section 1905 of title 18, United States Code, or section 552(b)(4) of title 5 of such Code.

''(i) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions under the authority of this section by the Secretary, by the Secretary of Defense, or by the Secretary of Homeland Security are committed to agency discretion.

''(j) RULES OF CONSTRUCTION.—The following applies with respect to this section:

''(1) Nothing in this section impairs the authority of the President as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution.

''(2) Nothing in this section impairs the authority of the Secretary of Defense with respect to the Department of Defense, including the armed forces, under other provisions of Federal law.

''(3) Nothing in this section (including any exercise of authority by a manufacturer under subsection (e)(2)) impairs the authority of the United States to use or manage quantities of a product that are owned or controlled by the United States (including quantities in the stockpile maintained under section 319F–2 of the Public Health Service Act).

''(k) RELATION TO OTHER PROVISIONS.—If a product is the subject of an authorization under this section, the use of such product within the scope of the authorization shall not be considered to constitute a clinical investigation for purposes of section 505(i), section 520(g), or any other provision of this Act or section 351 of the Public Health Service Act.

''(l) OPTION TO CARRY OUT AUTHORIZED ACTIVITIES.—Nothing in this section provides the Secretary any authority to require any person to carry out any activity that becomes lawful pursuant to an authorization under this section, and no person is required to inform the Secretary that the person will not be carrying out such activity, except that a manufacturer of a sole-source unapproved product authorized for emergency use shall report to the Secretary within a reasonable period of time after the issuance by the Secretary of such authorization if such manufacturer does not intend to carry out any activity under the authorization. This section only has legal effect on a person who carries out an activity for which an authorization under this section is issued. This section does not modify or affect activities carried out pursuant to other provisions of this Act or section 351 of the Public Health Service Act. Nothing in this subsection may be construed as restricting the Secretary from imposing conditions on persons who carry out any activity pursuant to an authorization under this section.''.

(b) REPEAL OF TERMINATION PROVISION.—Subsection (d) of section 1603 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 1107a note) is repealed.

SEC. 5. REPORTS REGARDING AUTHORITIES UNDER THIS ACT.

(a) SECRETARY OF HEALTH AND HUMAN SERVICES.—

(1) ANNUAL REPORTS ON PARTICULAR EXERCISES OF AUTHORITY.—

(A) RELEVANT AUTHORITIES.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall submit reports in accordance with subparagraph (B) regarding the exercise of authority under the following provisions of law:

(i) With respect to section 319F–1 of the Public Health Service Act (as added by section 2 of this Act):

(I) Subsection (b)(1) (relating to increased simplified acquisition threshold).

(II) Subsection (b)(2) (relating to procedures other than full and open competition).

(III) Subsection (c) (relating to expedited peer review procedures).

(ii) With respect to section 319F–2 of the Public Health Service Act (as added by section 3 of this Act):

(I) Subsection (c)(7)(C)(iii) (relating to simplified acquisition procedures).

(II) Subsection (c)(7)(C)(iv) (relating to procedures other than full and open competition).

(III) Subsection (c)(7)(C)(v) (relating to premium provision in multiple-award contracts).

(iii) With respect to section 564 of the Federal Food, Drug, and Cosmetic Act (as added by section 4 of this Act):

(I) Subsection (a)(1) (relating to emergency uses of certain drugs and devices).

(II) Subsection (b)(1) (relating to a declaration of an emergency).

(III) Subsection (e) (relating to conditions on authorization).

(B) CONTENTS OF REPORTS.—The Secretary shall annually submit to the designated congressional committees a report that summarizes—

(i) the particular actions that were taken under the authorities specified in subparagraph (A), including, as applicable, the identification of the threat agent, emergency, or the biomedical countermeasure with respect to which the authority was used;

(ii) the reasons underlying the decision to use such authorities, including, as applicable, the options that were considered and rejected with respect to the use of such authorities;

(iii) the number of, nature of, and other information concerning the persons and entities that received a grant, cooperative agreement, or contract pursuant to the use of such authorities, and the persons and entities that were considered and rejected for such a grant, cooperative agreement, or contract, except that the report need not disclose the identity of any such person or entity; and

(iv) whether, with respect to each procurement that is approved by the President under section 319F–2(c)(6) of the Public Health Service Act (as added by section 3 of this Act), a contract was entered into within one year after such approval by the President.

(2) ANNUAL SUMMARIES REGARDING CERTAIN ACTIVITY.—The Secretary shall annually submit to the designated congressional committees a report that summarizes the activity undertaken pursuant to the following authorities under section 319F–1 of the Public Health Service Act (as added by section 2 of this Act):

(A) Subsection (b)(3) (relating to increased micropurchase threshold).

(B) Subsection (d) (relating to authority for personal services contracts).

(C) Subsection (e) (relating to streamlined personnel authority).

With respect to subparagraph (B), the report shall include a provision specifying, for the one-year period for which the report is submitted, the number of persons who were paid amounts greater than $100,000 and the number of persons who were paid amounts between $50,000 and $100,000.

(3) REPORT ON ADDITIONAL BARRIERS TO PROCUREMENT OF SECURITY COUNTERMEASURES.—Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Homeland Security, shall report to the designated congressional committees any potential barriers to the procurement of security countermeasures that have not been addressed by this Act.

(b) GENERAL ACCOUNTING OFFICE REVIEW.—

(1) IN GENERAL.—Four years after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a study—

(A)(i) to review the Secretary of Health and Human Services' utilization of the authorities granted under this Act with respect to simplified acquisition procedures, procedures other than full and open competition, increased micropurchase thresholds, personal services contracts, streamlined personnel authority, and the purchase of security countermeasures under the special reserve fund; and

(ii) to make recommendations to improve the utilization or effectiveness of such authorities in the future;

(B)(i) to review and assess the adequacy of the internal controls instituted by such Secretary with respect to such authorities, where required by this Act; and

(ii) to make recommendations to improve the effectiveness of such controls;

(C)(i) to review such Secretary's utilization of the authority granted under this Act to authorize an emergency use of a biomedical countermeasure, including the means by which the Secretary determines whether and under what conditions any such authorizations should be granted and the benefits and adverse impacts, if any, resulting from the use of such authority; and

(ii) to make recommendations to improve the utilization or effectiveness of such authority and to enhance protection of the public health;

(D) to identify any purchases or procurements that would not have been made or would have been significantly delayed except for the authorities described in subparagraph (A)(i); and

(E)(i) to determine whether and to what extent activities undertaken pursuant to the biomedical countermeasure research and development authorities established in this Act have enhanced the development of biomedical countermeasures affecting national security; and

(ii) to make recommendations to improve the ability of the Secretary to carry out these activities in the future.

(2) ADDITIONAL PROVISIONS REGARDING DETERMINATION ON DEVELOPMENT OF BIOMEDICAL COUNTERMEASURES AFFECTING NATIONAL SECURITY.—In the report under paragraph (1), the determination under subparagraph (E) of such paragraph shall include—

(A) the Comptroller General's assessment of the current availability of countermeasures to address threats identified by the Secretary of Homeland Security;

(B) the Comptroller General's assessment of the extent to which programs and activities under this Act will reduce any gap between the threat and the availability of countermeasures to an acceptable level of risk; and

(C)(i) the Comptroller General's assessment of threats to national security that are posed by technology that will enable, during the 10-year period beginning on the date of the enactment of this Act, the development of antibiotic resistant, mutated, or bioengineered strains of biological agents; and

(ii) recommendations on short-term and long-term governmental strategies for addressing such threats, including recommendations for Federal policies regarding research priorities, the development of countermeasures, and investments in technology.

(3) REPORT.—A report providing the results of the study under paragraph (1) shall be submitted to the designated congressional committees not later than five years after the date of the enactment of this Act.

(c) REPORT REGARDING BIOCONTAINMENT FACILITIES.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Health and Human Services shall jointly report to the designated congressional committees whether there is a lack of adequate large-scale biocontainment facilities necessary for the testing of security countermeasures in accordance with Food and Drug Administration requirements.

(d) DESIGNATED CONGRESSIONAL COMMITTEES.—For purposes of this section, the term ''designated congressional committees'' means the following committees of the Congress:

(1) In the House of Representatives: the Committee on Energy and Commerce, the Committee on Appropriations, the Committee on Government Reform, and the Select Committee on Homeland Security (or any successor to the Select Committee).

(2) In the Senate: the appropriate committees.

SEC. 6. OUTREACH.

The Secretary of Health and Human Services shall develop outreach measures to ensure to the extent practicable that diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Black or African Americans, American Indians, Appalachian Americans, Alaska Natives, Asians, Native Hawaiians, other Pacific Islanders, Hispanics or Latinos, or other underrepresented populations, are meaningfully aware of available research and development grants, contracts, cooperative agreements, and procurements conducted under sections 2 and 3 of this Act.

SEC. 7. RECOMMENDATION FOR EXPORT CONTROLS ON CERTAIN BIOMEDICAL COUNTERMEASURES.

Upon the award of any grant, contract, or cooperative agreement under section 2 or 3 of this Act for the research, development, or procurement of a qualified countermeasure or a security countermeasure (as those terms are defined in this Act), the Secretary of Health and Human Services shall, in consultation with the heads of other appropriate Federal agencies, determine whether the countermeasure involved in such grant, contract, or cooperative agreement is subject to existing export-related controls and, if not, may make a recommendation to the appropriate Federal agency or agencies that such countermeasure should be included on the list of controlled items subject to such controls.

SEC. 8. ENSURING COORDINATION, COOPERATION AND THE ELIMINATION OF UNNECESSARY DUPLICATION IN PROGRAMS DESIGNED TO PROTECT THE HOMELAND FROM BIOLOGICAL, CHEMICAL, RADIOLOGICAL, AND NUCLEAR AGENTS.

(a) ENSURING COORDINATION OF PROGRAMS.—The Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Defense shall ensure that the activities of their respective Departments coordinate, complement, and do not unnecessarily duplicate programs to identify potential domestic threats from biological, chemical, radiological or nuclear agents, detect domestic incidents involving such agents, analyze such incidents, and develop necessary countermeasures. The aforementioned Secretaries shall further ensure that information and technology possessed

by the Departments relevant to these activities are shared with the other Departments.

(b) DESIGNATION OF AGENCY COORDINATION OFFICER.—The Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Defense shall each designate an officer or employee of their respective Departments who shall coordinate, through regular meetings and communications, with the other aforementioned Departments such programs and activities carried out by their Departments.

SEC. 9. AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES DURING NATIONAL EMERGENCIES.

Section 1135(b) of the Social Security Act (42 U.S.C. 1320b–5(b)) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) actions under section 1867 (relating to examination and treatment for emergency medical conditions and women in labor) for—

''(A) a transfer of an individual who has not been stabilized in violation of subsection (c) of such section if the transfer is necessitated by the circumstances of the declared emergency in the emergency area during the emergency period; or

''(B) the direction or relocation of an individual to receive medical screening in an alternate location pursuant to an appropriate State emergency preparedness plan;'';

(2) in paragraph (5), by striking ''and'' at the end;

(3) in paragraph (6), by striking the period and inserting ''; and'';

(4) by inserting after paragraph (6), the following:

''(7) sanctions and penalties that arise from noncompliance with the following requirements (as promulgated under the authority of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note)—

''(A) section 164.510 of title 45, Code of Federal Regulations, relating to—

''(i) requirements to obtain a patient's agreement to speak with family members or friends; and

''(ii) the requirement to honor a request to opt out of the facility directory;

''(B) section 164.520 of such title, relating to the requirement to distribute a notice; or

''(C) section 164.522 of such title, relating to—

''(i) the patient's right to request privacy restrictions; and

''(ii) the patient's right to request confidential communications.''; and

(5) by adding at the end the following: ''A waiver or modification provided for under paragraph (3) or (7) shall only be in effect if such actions are taken in a manner that does not discriminate among individuals on the basis of their source of payment or of their ability to pay, and shall be limited to a 72-hour period beginning upon implementation of a hospital disaster protocol. A waiver or modification under such paragraph (7) shall be withdrawn after such period and the provider shall comply with the requirements under such paragraph for any patient still under the care of the provider.''.

SA 3179. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 30, between lines 14 and 15, insert the following:

SEC. 217. ADVANCED FERRITE ANTENNA.

(a) AMOUNT FOR DEVELOPMENT AND TESTING.—Of the amount authorized to be appropriated under section 201(2), $3,000,000 shall be available for development and testing of the Advanced Ferrite Antenna.

(b) ADJUSTMENTS TO AUTHORIZATIONS OF APPROPRIATIONS.—(1) The amount authorized to be appropriated under section 201(2) is hereby increased by $3,000,000.

(2) The amount authorized to be appropriated under section 102(a)(3) is hereby reduced by $3,000,000, to be derived from the amounts for the LCU(X) program.

SA 3180. Mr. GREGG (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures; as follows:

Amend the title so as to read: To amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.''.

SA 3181. Ms. CANTWELL (for herself, Mr. HOLLINGS, Mrs. MURRAY, Mrs. CLINTON, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 384, strike line 3 and all that follows through page 391, line 7, and insert the following:

SEC. 3117. ANNUAL REPORT ON EXPENDITURES FOR SAFEGUARDS AND SECURITY.

(a) ANNUAL REPORT REQUIRED.—Subtitle C of title XLVII of the Atomic Energy Defense Act (50 U.S.C. 2771 et seq.) is amended by adding at the end the following new section:

''SEC. 4732. ANNUAL REPORT ON EXPENDITURES FOR SAFEGUARDS AND SECURITY.

''The Secretary of Energy shall submit to Congress each year, in the budget justification materials submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted under section 1105(a) of title 31, United States Code), the following:

''(1) A detailed description and accounting of the proposed obligations and expenditures by the Department of Energy for safeguards and security in carrying out programs necessary for the national security for the fiscal year covered by such budget, including any technologies on safeguards and security proposed to be deployed or implemented during such fiscal year.

''(2) With respect to the fiscal year ending in the year before the year in which such budget is submitted, a detailed description and accounting of—

''(A) the policy on safeguards and security, including any modifications in such policy adopted or implemented during such fiscal year;

''(B) any initiatives on safeguards and security in effect or implemented during such fiscal year;

''(C) the amount obligated and expended for safeguards and security during such fiscal year, set forth by total amount, by amount per program, and by amount per facility; and

''(D) the technologies on safeguards and security deployed or implemented during such fiscal year.''.

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 4731 the following new item:

''Sec. 4732. Annual report on expenditures for safeguards and security.''.

SEC. 3118. AUTHORITY TO CONSOLIDATE COUNTERINTELLIGENCE OFFICES OF DEPARTMENT OF ENERGY AND NATIONAL NUCLEAR SECURITY ADMINISTRATION WITHIN NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORITY.—The Secretary of Energy may consolidate the counterintelligence programs and functions referred to in subsection (b) within the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration and provide for their discharge by that Office.

(b) COVERED PROGRAMS AND FUNCTIONS.—The programs and functions referred to in this subsection are as follows:

(1) The functions and programs of the Office of Counterintelligence of the Department of Energy under section 215 of the Department of Energy Organization Act (42 U.S.C. 7144b).

(2) The functions and programs of the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration under section 3232 of the National Nuclear Security Administration Act (50 U.S.C. 2422), including the counterintelligence programs under section 3233 of that Act (50 U.S.C. 2423).

(c) ESTABLISHMENT OF POLICY.—The Secretary shall have the responsibility to establish policy for the discharge of the counterintelligence programs and functions consolidated within the National Nuclear Security Administration under subsection (a) as provided for under section 213 of the Department of Energy Organization Act (42 U.S.C. 7144).

(d) PRESERVATION OF COUNTERINTELLIGENCE CAPABILITY.—In consolidating counterintelligence programs and functions within the National Nuclear Security Administration under subsection (a), the Secretary shall ensure that the counterintelligence capabilities of the Department of Energy and the National Nuclear Security Administration are in no way degraded or compromised.

(e) REPORT ON EXERCISE OF AUTHORITY.—In the event the Secretary exercises the authority in subsection (a), the Secretary shall submit to the congressional defense committees a report on the exercise of the authority. The report shall include—

(1) a description of the manner in which the counterintelligence programs and functions referred to in subsection (b) shall be consolidated within the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration and discharged by that Office;

(2) a notice of the date on which that Office shall commence the discharge of such programs and functions, as so consolidated; and

(3) a proposal for such legislative action as the Secretary considers appropriate to effectuate the discharge of such programs and functions, as so consolidated, by that Office.

(f) DEADLINE FOR EXERCISE OF AUTHORITY.—The authority in subsection (a) may be exercised, if at all, not later than one year after the date of the enactment of this Act.

SEC. 3119. ON-SITE TREATMENT AND STORAGE OF WASTES FROM REPROCESSING ACTIVITIES AND RELATED WASTE.

(a) AUTHORITY.—Of the amount authorized to be appropriated by section 3102(a)(1) for environmental management for defense site acceleration completion, $350,000,000 shall be available for the following purposes at the sites referred to in subsection (b):

(1) The safe management of tanks or tank farms used to store waste from reprocessing activities.

(2) The on-site treatment and storage of wastes from reprocessing activities and related waste.

(3) The consolidation of tank waste.

(4) The emptying and cleaning of storage tanks.

(b) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

SA 3182. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3170 submitted by Mr. GRAHAM of South Carolina and intended to be proposed to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 11.

SA 3183. Mr. SMITH (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill insert the following:

TITLE ____—LOCAL LAW ENFORCEMENT ENHANCEMENT ACT.

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Local Law Enforcement Enhancement Act of 2004''.

SEC. ___02. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ''races''. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. ___03. DEFINITION OF HATE CRIME.

In this title, the term ''hate crime'' has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. ___04. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the race, color, religion, national origin, gender, sexual orientation, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(4) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(6) REPORT.—Not later than December 31, 2005, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to

carry out this subsection $5,000,000 for each of fiscal years 2005 and 2006.

SEC. ___05. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. ___06. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2005, 2006, and 2007 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by section ___07.

SEC. ___07. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"§ 249. Hate crime acts

''(a) IN GENERAL.—

''(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

''(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(i) death results from the offense; or

''(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

''(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

''(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(I) death results from the offense; or

''(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

''(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

''(I) across a State line or national border; or

''(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

''(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

''(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

''(iv) the conduct described in subparagraph (A)—

''(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

''(II) otherwise affects interstate or foreign commerce.

''(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

''(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

''(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

''(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

''(B) the State has requested that the Federal Government assume jurisdiction;

''(C) the State does not object to the Federal Government assuming jurisdiction; or

''(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

''(c) DEFINITIONS.—In this section—

''(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title; and

''(2) the term 'firearm' has the meaning given the term in section 921(a) of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''249. Hate crime acts.''.

SEC. ___08. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to the authority provided under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. ___09. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting ''gender,'' after ''race,''.

SEC. ___10. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SA 3184. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 113. INTEGRATION OF JAVELIN ANTI-ARMOR MISSILE SYSTEM INTO ENGAGEMENT SKILLS TRAINER 2000.

The amount authorized to be appropriated by section 101(5) for other procurement for the Army is hereby increased by $3,000,000, with the amount of the increase to be allocated to the integration of the JAVELIN anti-armor missile system into the Engagement Skills Trainer 2000 in order to allow soldiers in infantry rifle platoons to train will all their organic weapons.

SA 3185. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title III, add the following:

SEC. 313. NAVAL PROFESSIONAL MILITARY EDUCATION.

The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby increased by $4,000,000, with the amount of the increase to be allocated to Naval Professional Military Education (NPME).

SA 3186. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 217. ADVANCED DIGITAL RADAR SYSTEM.

The amount authorized to be appropriated by section 201(1) for research, development,

test, and evaluation, Army, is hereby increased by $3,000,000, with the amount of the increase to be made available for initial development of the Advanced Digital Radar System (ADRS) (PE 0605602A).

SA 3187. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title III, add the following:

SEC. 313. DEPLOYMENT AND EXPANSION OF CIVIL SUPPORT TEAM TRAINER PROGRAM.

The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $5,000,000, with the amount of the increase to be allocated to deploy and expand the scenarios in the Civil Support Team Trainer (CSTT) program, a simulations based training program for the National Guard Weapons of Mass Destruction Civil Support Teams (WMD–CSTs).

SA 3188. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title III, add the following:

SEC. 313. ROTARY WING NIGHT VISION GOGGLE TRAINING.

The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby increased by $4,000,000, with the amount of the increase to be allocated to the development of rotary wing night vision goggle (NVG) training.

SA 3189. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 217. RAPID RESPONSE NETWORKING FOR MULTIPLE APPLICATIONS.

The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby increased by $1,500,000, with the amount of the increase to be allocated to the Defense Threat Reducation Agency and made available to the University of North Florida for the purpose of permitting the University to continue its ongoing research on Rapid Response networking for Multiple Applications.

SA 3190. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 131, between lines 17 and 18, insert the following:

SEC. 653. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN FEDERAL AGRICULTURAL LOAN OBLIGATIONS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2009dd–7) is amended by inserting after section 331F the following:

"SEC. 332. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN AGRICULTURAL LOAN OBLIGATIONS.

''(a) FORGIVENESS OF INTEREST PAYMENTS DUE WHILE BORROWER IS A MOBILIZED MILITARY RESERVIST.—Any requirement that a borrower of a direct loan made under this title make any interest payment on the loan that would otherwise be required to be made while the borrower is a mobilized military reservist is hereby rescinded.

''(b) DEFERRAL OF PRINCIPAL PAYMENTS DUE WHILE OR AFTER BORROWER IS A MOBILIZED MILITARY RESERVIST.—The due date of any payment of principal on a direct loan made to a borrower under this title that would otherwise be required to be made while or after the borrower is a mobilized military reservist is hereby deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

''(c) MOBILIZED MILITARY RESERVIST.—In this section, the term 'mobilized military reservist' means an individual who—

''(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

''(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds.''.

SA 3191. Mr. KYL (for himself and Mr. CORNYN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of the amendment, insert the following:

SEC. 858. SENSE OF THE SENATE REGARDING EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

It is the sense of the Senate that Congress should, as soon as practicable, enact the following legislation:

SEC. ___. EXCISE TAXES ON EXCESS FEE TRANSACTIONS OF CERTAIN ATTORNEYS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subchapter D of chapter 42 of the Internal Revenue Code of 1986 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

"SEC. 4959. TAXES ON EXCESS FEE TRANSACTIONS.

''(a) INITIAL TAXES.—

''(1) IN GENERAL.—There is hereby imposed on the collecting attorney in each excess fee transaction a tax equal to 5 percent of the excess fee.

''(2) PAYMENT.—The tax imposed by paragraph (1) shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

''(b) ADDITIONAL TAX ON THE COLLECTING ATTORNEY.—

''(1) IN GENERAL.—In any case in which a tax is imposed by subsection (a) on an excess fee transaction and the excess fee involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess fee involved.

''(2) PAYMENT.—The tax imposed by this paragraph shall be paid by any collecting attorney referred to in subsection (f)(1) with respect to such transaction.

''(c) EXCESS FEE TRANSACTION; EXCESS FEE.—For purposes of this section—

''(1) EXCESS FEE TRANSACTION.—

''(A) IN GENERAL.—The term 'excess fee transaction' means any transaction in which a fee is provided by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff if the amount of the fee provided exceeds the value of the services received in exchange therefor or subsection (g)(1) applies.

''(B) DETERMINATION OF VALUE.—For purposes of subparagraph (A), in determining whether the amount of the fee provided exceeds the value of the services received in exchange therefor, the value of the services shall be the sum of—

''(i) the reasonable expenses incurred by the collecting attorney in the course of the representation of the applicable plaintiff, and

''(ii) a reasonable fee based on—

''(I) the number of hours of non-duplicative, professional quality legal work provided by the collecting attorney of material value to the outcome of the representation of the applicable plaintiff, taking into account the factors described in subparagraphs (B) and (D) of subsection (h)(2),

''(II) reasonable hourly rates for the individuals performing such work based on hourly rates charged by other attorneys for the rendition of comparable services, including rates charged by adversary defense counsel in the representation, taking into account the factors described in subparagraphs (A), (C), (E), and (G) of subsection (h)(2), and

''(III) to the extent such items are not taken into account in establishing the reasonable hourly rates under subclause (II), an appropriate adjustment rate determined in accordance with subparagraph (C) to compensate the collecting attorney for periods of

substantial risk of non-payment of fees and for skillful or innovative services which increase the amount of the applicable plaintiff's recovery.

''(iii) FEES IN CERTAIN SETTLEMENTS.—For purposes of this subparagraph, the value of services for any collecting attorney receiving fees under the Master Settlement Agreement shall be deemed to include a reasonable fee that is based on a reasonable hourly rate (including appropriate adjustment rates) of not less than $20,000 per hour

''(C) ADJUSTMENT RATE.—

''(i) IN GENERAL.—For purposes of this paragraph, an appropriate adjustment rate is a percentage of the reasonable hourly rate under subparagraph (B)(ii)(II) which is added to the amount of such rate and which is not more than the sum of one risk percentage and one skill percentage described in clauses (ii) and (iii), respectively.

''(ii) RISK PERCENTAGE.—For purposes of this subparagraph, the term 'risk percentage' means a percentage rate that is proportional to the collecting attorney's risk of nonrecovery of fees and which is—

''(I) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees, not more than 100 percent,

''(II) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 8,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 2 years to the case before resolution of all claims, not more than 200 percent, or

''(III) in the case of a collecting attorney who assumed a substantial risk of nonpayment of fees and devoted more than 15,000 hours of legal work (as described in subparagraph (B)(ii)(I)) and more than 4 years to the case before resolution of all claims, not more than 300 percent.

''(iii) SKILL PERCENTAGE.—For purposes of this subparagraph, the term 'skill percentage' means, in the case of a collecting attorney who has demonstrated exceptionally skillful or innovative legal service which generated a recovery for the applicable plaintiff substantially greater than the typical recovery in similar cases, a percentage rate that is proportional to the increase in the applicable plaintiff's recovery and that is not more than 100 percent.

''(iv) LIMITATION.—An appropriate adjustment rate shall not increase the collecting attorney's fee above an amount that is proportional to the applicable plaintiff's recovery.

''(D) COURT APPROVAL OF FEES.—Fee payments approved by any court shall be presumed to not be in excess of the value of the services received in exchange therefor if the court approving the fee—

''(i) did not approve an adjustment rate greater than that determined to be appropriate under subparagraph (C) in a case where such fee included an adjustment rate, and

''(ii) obtained and relied upon a report of a legal auditing firm with respect to such fee in accordance with the procedures in paragraph (12).

''(2) EXCESS FEE.—The term 'excess fee' means the excess referred to in paragraph (1)(A).

''(d) JOINT AND SEVERAL LIABILITY.—For purposes of this section, if more than 1 person is liable for any tax imposed by subsection (a), all such persons shall be jointly and severally liable for such tax.

''(e) APPLICABLE PLAINTIFF.—For purposes of this section, the term 'applicable plaintiff' means any person represented by a collecting attorney with respect to a claim described in subsection (f)(1).

''(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) COLLECTING ATTORNEY.—The term 'collecting attorney' means any person engaged in the practice of law who represents—

''(A) any governmental entity, including any State, municipality, or political subdivision of a State, or any person acting on such entity's behalf, including pursuant to Federal or State Qui Tam statutes, in a claim for recoupment of payments made or to be made by such entity to or on behalf of any natural person by reason, directly or indirectly, of a breach of duty that causes damage to such natural person,

''(B) any organization described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), in a claim for damages based on a breach of duty, whether civil or criminal, causing damage to such organization,

''(C) any natural person seeking to recover damages in a claim based on breaches of duty, whether civil or criminal, causing damage to such natural person, or

''(D) any assignee or other holder of claims described in subparagraph (A), (B), or (C),

when 1 or more of such claims, whether or not joined in 1 action, involve the same or a coordinated group of plaintiff's attorneys or similarly situated defendants, arise out of the same transaction or set of facts or involve substantially similar liability issues, and result in settlements or judgments aggregating at least $100,000,000.

''(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess fee transaction, the period beginning with the date on which the transaction occurs and ending 90 days after the earliest of—

''(A) the date of the mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(3) MASTER SETTLEMENT AGREEMENT.—The term 'Master Settlement Agreement' means that certain Master Settlement Agreement of November 23, 1998, and other, concluded Settlement Agreements based on State health care expenditures pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including lawsuits involving the States of Florida, Minnesota, Mississippi, and Texas.

''(4) CORRECTION.—

''(A) GENERAL RULE.—Any excess fee transaction is corrected by undoing the excess fee to the extent possible and taking any additional measures necessary to place the applicable plaintiff in a financial position not worse than that in which such plaintiff would be if the collecting attorney were dealing under the highest fiduciary standards.

''(B) PAYMENT OF EXCESS FEES.—

''(i) IN GENERAL.—Except as provided in clause (ii), a collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the applicable plaintiff.

''(ii) CERTAIN SETTLEMENTS.—In the case of excess fees arising from or related to the Master Settlement Agreement, the collecting attorney corrects an excess fee transaction by paying any excess fees plus interest to the Secretary of the Treasury.

''(C) NO WAIVER OF FEE.—No collecting attorney may avoid imposition of any tax imposed by this section by transferring any portion of the excess fee or refusing to accept any portion of the excess fee.

''(5) LIMITED REASONABLE CAUSE.—For purposes of section 4962(a), an excess fee transaction shall not be treated as an event which was due to reasonable cause if the amount of the fee provided would exceed the value of the services received in exchange therefor determined with the maximum adjustment rate allowed under subsection (c)(1)(C).

''(g) DISCLOSURE REQUIREMENTS.—

''(1) TREATMENT AS EXCESS FEE.—Any fee provided after the date of the enactment of this subsection by an applicable plaintiff (including payments resulting from litigation on behalf of an applicable plaintiff determined on an hourly or percentage basis, whether such fee is paid from the applicable plaintiff's recovery, pursuant to a separately negotiated agreement, or in any other manner), directly or indirectly, to or for the use of any collecting attorney with respect to such applicable plaintiff shall be deemed to be an excess fee provided in an excess fee transaction unless the disclosure requirements described in paragraph (2) are met.

''(2) CONTENTS OF STATEMENT.—The disclosure requirements of this paragraph are met for any taxable year in which a collecting attorney receives any fees with respect to a claim described in subsection (f)(1), if such collecting attorney—

''(A) includes in the return of tax for such taxable year a statement including the information described in subsection (c)(1) with respect to such claim, and

''(B) provides a statement including the information described in subsection (c)(1) to the applicable plaintiff prior to the deadline (including extensions) for filing such return.

''(h) LEGAL AUDITING FIRM.—

''(1) IN GENERAL.—In any case before a Federal district court or a State court in which the court approves fees paid to a collecting attorney, the court shall seek bids from legal auditing firms with a specialty in reviewing attorney billings and select 1 such legal auditing firm to review the billing records submitted by the collecting attorney, under the same standards the firm would use if it were hired by a private party to review legal bills submitted to the party, for the reasonableness of such attorney's billing patterns and practices. The court shall require the collecting attorney to submit billing records, cost records, and any other information sought by such firm in its review.

''(2) REVIEW BY LEGAL AUDITING FIRM.—In reviewing the billing records and work performed by the collecting attorney, the legal auditing firm shall address all relevant matters, including—

''(A) the hourly rates of the collecting attorney compared with the prevailing market rates for the services rendered by the collecting attorney,

''(B) the number of hours worked by the collecting attorney on the case compared with other cases that the collecting attorney worked on during the same period,

''(C) whether the collecting attorney performed tasks that could have been performed by attorneys with lower billing rates,

''(D) whether the collecting attorney used appropriate billing methodology, including keeping contemporaneous time records and using appropriate billing time increments,

''(E) whether particular tasks were staffed appropriately,

''(F) whether the costs and expenses submitted by the collecting attorney were reasonable,

''(G) whether the collecting attorney exercised billing judgment, and

''(H) any other matters normally addressed by the legal auditing firm when reviewing attorney billings for private clients.

''(3) FILING OF REPORT; RESPONSE; BURDEN OF PROOF.—The court shall set a date for the filing of the report of the legal auditing firm, and allow the collecting attorney or any applicable plaintiff to respond to the report within a reasonable time period. The report shall be presumed correct unless rebutted by the collecting attorney or any applicable plaintiff by clear and convincing evidence.

''(4) FEE FOR LEGAL AUDITING FIRM.—The fee for the report of the legal auditing firm shall be paid from the collecting attorney's

fee award, the applicable plaintiff's recovery, or both in a manner determined by the court.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations to prevent avoidance of the purposes of this section and regulations requiring recordkeeping and information reporting.''.

(2) CONFORMING AND CLERICAL AMENDMENTS.—

(A) Subsections (a), (b), and (c) of section 4963 of the Internal Revenue Code of 1986 are each amended by inserting ''4959,'' after ''4958,''.

(B) Subsection (e) of section 6213 of such Code is amended by inserting ''4959 (relating to excess fee transactions),'' before ''4971''.

(C) Paragraphs (2) and (3) of section 7422(g) of such Code are each amended by inserting ''4959,'' after ''4958,''.

(D) The heading for subchapter D of chapter 42 of such Code is amended to read as follows:

''Subchapter D—Failure by Certain Charitable Organizations and Persons to Meet Certain Qualification Requirements and Fiduciary Standards.''.

(E) The table of subchapters for chapter 42 of such Code is amended by striking the item relating to subchapter D and inserting the following:

''SUBCHAPTER D. Failure by certain charitable organizations and persons to meet certain qualification requirements and fiduciary standards.''.

(F) The table of sections for subchapter D of chapter 42 of such Code is amended by adding at the end the following new item:

''Sec. 4959. Taxes on excess fee transactions.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to excess fees paid on or after the date of the enactment of this Act.

(b) DECLATORY JUDGMENTS RELATING TO EXCISE TAXES ON EXCISE FEE TRANSACTIONS OF CERTAIN ATTORNEYS.—

(1) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to judicial proceedings) is amended by redesignating section 7437 as section 7438 and by inserting after section 7436 the following new section:

''SEC. 7437. DECLARATORY JUDGMENTS RELATING TO TAX ON EXCESS FEE TRANSACTIONS.

''(a) IN GENERAL.—In a case of actual controversy involving—

''(1) a determination by the Secretary or the collecting attorney with respect to the imposition of the excise tax on excess fee transactions on such collecting attorney under section 4959, or

''(2) a failure by the Secretary or the collecting attorney to make such a determination,

upon the filing of an appropriate pleading by an applicable plaintiff, the Tax Court may make a declaration with respect to such determination or failure. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(b) DEFERENTIAL REVIEW.—If a collecting attorney's fee has been approved by a court in accordance with section 4959(c)(1)(D) or by the Secretary pursuant to section 4959, the Tax Court shall review the fee only for an abuse of discretion.

''(c) LEGAL AUDITING FIRM.—In any petition for a declaration referred to in subsection (a):

''(1) NO PREVIOUS REPORT.—If a report by a legal auditing firm that meets the requirements of section 4959(h) has not been previously produced and relied on by another court, the Tax Court shall hire such a legal auditing firm and rely on its report pursuant to the procedures in section 4959(h).

''(2) SECOND REPORT.—

''(A) IN GENERAL.—If a report by a legal auditing firm has been approved by a court in accordance with section 4959, the Tax Court shall hire a second legal auditing firm upon the request of the petitioner.

''(B) FEE FOR REPORT.—The Tax Court may direct the petitioner to pay the fee for any report of a legal auditing firm provided pursuant to subparagraph (A).

''(d) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this section by any person until 90 days after such person first notifies the Secretary of the excess fee transaction with respect to which the proceeding relates.

''(e) DEFINITIONS.—For purposes of this section, any term used in this section and also in section 4959 shall have the meaning given such term by section 4959.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 7437 and by inserting the following new items:

''Sec. 7437. Declaratory judgments relating to tax on excess fee transactions.

''Sec. 7438. Cross references.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions filed on or after the date of the enactment of this Act.

(c) USE OF CERTAIN FEES.—Any fees collected by the Secretary of the Treasury pursuant to section 4959(f)(4)(B)(ii) of the Internal Revenue Code of 1986 (as added by subsection (a)), shall be made available to the Secretary of Defense, as provided by appropriation Acts, for making expenditures to address the readiness, force protection, and safety needs arising out of the ongoing global war on terrorism. Such expenditures shall include additional—

(1) up-armored High Mobility Multipurpose Wheeled Vehicles;

(2) add-on ballistic protection for medium and heavy wheeled vehicles;

(3) Interceptor Body Armor, including add-on protection for the shoulder and side body areas;

(4) unmanned aerial vehicles;

(5) ammunition and selected items of high priority (such as vehicles, night vision devices, sensors, and Javelin missiles); and

(6) replacement of equipment lost in combat.

SA 3192. Mr. DOMENICI (for himself, Mrs. FEINSTEIN, Mr. LUGAR, Mr. BIDEN, Mr. ALEXANDER, Mr. BINGAMAN, Mr. REED, Mr. AKAKA, Mr. WARNER, Mr. LEVIN, and Mr. FEINGOLD) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

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

SEC. 3132. ACCELERATION OF REMOVAL OR SECURITY OF FISSILE MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED EQUIPMENT AT VULNERABLE SITES WORLDWIDE.

(a) SENSE OF CONGRESS.—(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) PROGRAM AUTHORIZED.—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) PROGRAM ELEMENTS.—(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials and radiological materials and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, nongovernmental organizations, and other international entities as the Secretary considers appropriate for the program.

(d) REPORTS.—(1) Not later than March 15, 2005, the Secretary shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) FUNDING.—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(f) DEFINITIONS.—In this section:

(1) The term ''fissile materials'' means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term ''radiological materials'' includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226 and Strontium-90, Curium-244, Strontium-90, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term ''related equipment'' includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term ''highly-enriched uranium'' means uranium enriched to or above 20 percent in isotope 235.

(5) The term ''low-enriched uranium'' means uranium enriched below 20 percent in isotope 235.

(6) The term ''proliferation-attractive'', in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

SA 3193. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XIII—BENEFITS FOR RESERVES ON EXTENDED TOURS OF ACTIVE DUTY

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Guard and Reserve Enhanced Benefits Act of 2004''.

Subtitle A—Family Assistance Benefits

SEC. 1311. MILITARY FAMILY LEAVE.

(a) GENERAL REQUIREMENTS FOR LEAVE.—

(1) DEFINITIONS.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following:

''(14) ACTIVE DUTY.—The term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

''(15) QUALIFIED MEMBER.—The term 'qualified member' means a member of the reserve components on active duty for a period of more than 30 days.''.

(2) ENTITLEMENT TO LEAVE.—Section 102(a)(1) of such Act (29 U.S.C. 2612(a)) is amended by adding at the end the following:

''(E) Because the spouse, son, daughter, or parent of the employee is a qualified member.''.

(3) SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following: ''Leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.''.

(4) SUBSTITUTION OF PAID LEAVE.—Section 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is amended by striking ''(A), (B), or (C)'' and inserting ''(A), (B), (C), or (E)''.

(5) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following:

''(3) NOTICE FOR MILITARY FAMILY LEAVE.—In any case in which an employee seeks leave under subsection (a)(1)(E), the employee shall provide such notice as is practicable.''.

(6) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following:

''(f) CERTIFICATION FOR MILITARY FAMILY LEAVE.—An employer may require that a request for leave under section 102(a)(1)(E) be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe.''.

(b) MILITARY FAMILY LEAVE FOR CIVIL SERVICE EMPLOYEES.—

(1) DEFINITIONS.—Section 6381 of title 5, United States Code, is amended—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code; and

''(8) the term 'qualified member' means a member of the reserve components on active duty for a period of more than 30 days.''.

(2) ENTITLEMENT TO LEAVE.—Section 6382(a) of such title is amended by adding at the end the following:

''(E) Because the spouse, son, daughter, or parent of the employee is a qualified member.''.

(3) SCHEDULE.—Section 6382(b)(1) of such title is amended by inserting after the second sentence the following: ''Leave under subsection (a)(1)(E) may be taken intermittently or on a reduced leave schedule.''.

(4) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by striking ''(A), (B), (C), or (D)'' and inserting ''(A), (B), (C), (D), or (E)''.

(5) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following:

''(3) In any case in which an employee seeks leave under subsection (a)(1)(E), the employee shall provide such notice as is practicable.''.

(6) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following:

''(f) An employing agency may require that a request for leave under section 6382(a)(1)(E) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.''.

SEC. 1312. CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking ''There is'' and inserting ''(a) IN GENERAL.—There is'';

(2) in subsection (a), as so designated, by inserting ''(except section 658T)'' after ''this subchapter''; and

(3) by adding at the end the following:

''(b) CHILD CARE FOR CERTAIN MILITARY DEPENDENTS.—There is authorized to be appropriated to carry out section 658T $200,000,000 for each of fiscal years 2005 through 2009.''.

(b) CHILD CARE ASSISTANCE.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by adding at the end the following:

''SEC. 658T. CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

''(a) IN GENERAL.—The Secretary shall make grants to eligible spouses to assist the spouses in paying for the cost of child care services provided to dependents by eligible child care providers. In making the grants, the Secretary shall give priority to eligible spouses of qualified members on active duty for a period of more than 6 months.

''(b) DEFINITIONS.—In this section:

''(1) ACTIVE DUTY.—The term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

''(2) ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.—The term 'active duty for a period of more than 30 days' has the meaning given the term in section 101(d)(2) of title 10, United States Code.

''(3) DEPENDENT.—The term 'dependent' means an individual who is—

''(A) a dependent, as defined in section 401 of title 37, United States Code, except that

such term does not include a person described in paragraph (1) or (3) of subsection (a) of such section; and

''(B) an individual described in subparagraphs (A) and (B) of section 658P(4).

''(4) ELIGIBLE SPOUSE.—The term 'eligible spouse' means a person who—

''(A) is a parent of one or more dependents of a qualified member; and

''(B) has the primary responsibility for the care of one or more such dependents.

''(5) QUALIFIED MEMBER.—The term 'qualified member' means a member of the reserve components of the Armed Forces on active duty for a period of more than 30 days.

''(c) APPLICATIONS.—To be eligible to receive a grant under this section, a spouse shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a description of the eligible child care provider who provides the child care services assisted through the grant.

''(d) RULE.—The provisions of this subchapter, other than section 658P and provisions referenced in section 658P, that apply to assistance provided under this subchapter shall not apply to assistance provided under this section.''.

(c) CONFORMING AMENDMENTS.—Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''appropriated under this subchapter'' and inserting ''appropriated under section 658B(a)''; and

(B) in paragraph (2), by striking ''appropriated under section 658B'' and inserting ''appropriated under section 658(a)''; and

(2) in subsection (b)(1), by striking ''appropriated under section 658B'' and inserting ''appropriated under section 658(a)''.

Subtitle B—Education Benefits

PART I—MONTGOMERY GI BILL BENEFITS

SEC. 1321. BASIC EDUCATIONAL ASSISTANCE FOR MEMBERS OF SELECTED RESERVE SERVING EXTENDED OR RECURRING PERIODS ON ACTIVE DUTY.

(a) ENTITLEMENT.—(1) Subsection (a)(1) of section 3011 of title 38, United States Code, is amended—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by adding ''or'' at the end; and

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

''(D) after September 11, 2001, while a member of the Selected Reserve—

''(i) serves at least 12 months of continuous active duty in the Armed Forces; or

''(ii) during any 60-month period, serves an aggregate of 24 months of continuous active duty in the Armed Forces;''.

(2) Subsection (d)(3) of such section is amended by striking ''The period of service'' and inserting ''Except in the case of an individual described in subsection (a)(1)(D), the period of service''.

(b) EXCLUSION FROM CONTRIBUTIONS FOR INCREASED ASSISTANCE.—Subsection (e)(1) of such section is amended by inserting ''(other than an individual described in subsection (a)(1)(D)'' after ''Any individual''.

(c) AMOUNT OF ASSISTANCE.—Section 3015(a) of such title is amended by inserting after ''three years'' the following: ''or an individual whose service on active duty on which such entitlement is based is described in clause (i) or (ii) of section 3011(a)(1)(D) of this title''.

SEC. 1322. INCREASE IN AMOUNT OF EDUCATIONAL ASSISTANCE FOR MEMBERS OF SELECTED RESERVE.

(a) INCREASE IN AMOUNTS.—Section 16131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking ''$251'' and inserting ''$400'';

(2) in subparagraph (B), by striking ''$188'' and inserting ''$300''; and

(3) in subparagraph (C), by striking ''$125'' and inserting ''$200''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to monthly rates of educational assistance for months beginning on or after that date.

SEC. 1323. MODIFICATION OF TIME LIMITATION FOR USE OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE OF MEMBERS OF SELECTED RESERVE.

Section 16133(a)(2) of title 10, United States Code, is amended—

(1) by inserting ''that is five years after the date'' after ''on the date''; and

(2) by striking ''first'' and inserting ''later''.

PART II—OTHER EDUCATION BENEFITS

SEC. 1326. STUDENT LOAN DEFERMENTS.

(a) FFEL AND DIRECT SUBSIDIZED LOANS.—Section 428(b)(1)(M) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)) is amended—

(1) in clause (ii), by striking ''or'' after the semicolon;

(2) in clause (iii), by inserting ''or'' after the semicolon; and

(3) by inserting after clause (iii) the following:

''(iv) during which the borrower is a member of the reserve components of the Armed Forces on active duty for a period of more than 30 days under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, and for 3 months following discharge or release from such active duty.''.

(b) CONSOLIDATION LOANS.—Section 428C(b)(4)(C)(ii) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(4)(C)(ii)) is amended—

(1) in subclause (II), by striking ''or'' after the semicolon;

(2) in subclause (III), by striking ''or (II)'' and inserting '', (II) or (III)'';

(3) by redesignating subclause (III) (as so amended) as subclause (IV); and

(4) by inserting after subclause (II) the following:

''(III) by the Secretary, in the case of a consolidation loan of a student who is on an active duty deferment under section 428(b)(1)(M)(iv); or''.

(c) FFEL AND DIRECT UNSUBSIDIZED LOANS.—Section 428H(e)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078–8(e)(2)) is amended by adding at the end the following:

''(C) Notwithstanding subparagraph (A), interest on loans made under this section for which payments of principal are deferred because the student is on an active duty deferment under section 428(b)(1)(M)(iv) shall be paid by the Secretary.''.

(d) PERKINS LOANS.—Section 464(c)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) in clause (iii), by striking ''or'' after the semicolon;

(2) in clause (iv), by inserting ''or'' after the semicolon; and

(3) by inserting after clause (iv) the following:

''(v) during which the borrower is a member of the reserve components of the Armed Forces on active duty for a period of more than 30 days under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, and for 3 months following discharge or release from such active duty.''.

SEC. 1327. PRESERVATION OF EDUCATIONAL STATUS AND TUITION.

(a) IN GENERAL.—Title VII of the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), as amended by section 1 of Public Law 108–189 (117 Stat. 2835), is further amended by adding at the end the following new section:

''SEC. 707. PRESERVATION OF EDUCATIONAL STATUS AND TUITION.

''(a) LEAVE OF ABSENCE.—A servicemember who is a member of the reserve components on active duty for a period of more than 30 days under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, and who is enrolled as a student at an institution of higher education at the time of entry into the service on active duty, shall be granted a leave of absence from the institution during the period of the service on active duty and for one year after the conclusion of the service on active duty.

''(b) EDUCATIONAL STATUS.—

''(1) IN GENERAL.—A servicemember on a leave of absence from an institution of higher education under subsection (a) shall be entitled, upon completion of the leave of absence, to be restored to the educational status the servicemember had attained before entering into the service on active duty as described in that subsection without loss of academic credits earned, scholarships or grants awarded, or, subject to paragraph (2), tuition and other fees paid before the entry of the servicemember into the service on active duty.

''(2) TUITION.—

''(A) REFUND.—An institution of higher education shall refund tuition or fees paid or credit the tuition and fees to the next period of enrollment after a servicemember returns from the leave of absence, at the option of the servicemember. Notwithstanding the 180-day limitation referred to in subsection (a)(2)(B) of section 484B of the Higher Education Act of 1965 (20 U.S.C. 1091b), a servicemember on a leave of absence under this section shall not be treated as having withdrawn for purposes of such section 484B unless the servicemember fails to return upon the completion of the leave of absence.

''(B) AMOUNT OF REFUND.—If a servicemember requests a refund for a period of enrollment, the percentage of the tuition and fees that shall be refunded shall be equal to 100 percent minus—

''(i) the percentage of the period of enrollment (for which the tuition and fees were paid) that was completed (as determined in accordance with subsection (d) of such section 484B) as of the day the servicemember withdrew, provided that such date occurs on or before the completion of 60 percent of the period of enrollment; or

''(ii) 100 percent, if the day the person withdrew occurs after the servicemember has completed 60 percent of the period of enrollment.''.

(b) CLERICAL AMENDMENT.—The table of contents of that Act is amended by adding at the end the following new item:

''Sec. 707. Preservation of educational status and tuition.''.

Subtitle C—Compensation and Retirement Benefits

SEC. 1331. NONREDUCTION IN PAY FOR FEDERAL EMPLOYEES WHO ARE RESERVES SERVING ON ACTIVE DUTY IN THE UNIFORMED SERVICES FOR EXTENDED PERIODS.

(a) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay of Reserves on active duty in the uniformed services for extended periods

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services for a period of more than 30 days pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of the service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) In this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay of Reserves on active duty in the uniformed services for extended periods.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as added by this section) beginning on or after the date of enactment of this Act.

SEC. 1332. CREDIT FOR INCOME DIFFERENTIAL FOR EMPLOYMENT OF ACTIVATED MILITARY RESERVIST AND REPLACEMENT PERSONNEL.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. EMPLOYER WAGE CREDIT FOR ACTIVATED MILITARY RESERVISTS.

''(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) in the case of a small business employer, the employment credit with respect to all qualified employees and qualified replacement employees of the taxpayer, plus

''(2) the self-employment credit of a qualified self-employed taxpayer.

''(b) EMPLOYMENT CREDIT.—For purposes of this section—

''(1) QUALIFIED EMPLOYEES.—

''(A) IN GENERAL.—The employment credit with respect to a qualified employee of the taxpayer for any taxable year is equal to the lesser of—

''(i) the excess, if any, of—

''(I) the qualified employee's average daily qualified compensation for the taxable year, over

''(II) the average daily military pay and allowances received by the qualified employee during the taxable year,

while participating in qualified reserve component duty to the exclusion of the qualified employee's normal employment duties for the number of days the qualified employee participates in qualified reserve component duty during the taxable year, including time spent in a travel status, or

''(ii) $6,000.

The employment credit, with respect to all qualified employees, is equal to the sum of the employment credits for each qualified employee under this subsection.

''(B) AVERAGE DAILY QUALIFIED COMPENSATION AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a qualified employee—

''(i) the term 'average daily qualified compensation' means the qualified compensation of the qualified employee for the taxable year divided by the difference between—

''(I) 365, and

''(II) the number of days the qualified employee participates in qualified reserve component duty during the taxable year, including time spent in a travel status, and

''(ii) the term 'average daily military pay and allowances' means—

''(I) the amount paid to the qualified employee during the taxable year as military pay and allowances on account of the qualified employee's participation in qualified reserve component duty, divided by

''(II) the total number of days the qualified employee participates in qualified reserve component duty, including time spent in travel status.

''(C) QUALIFIED COMPENSATION.—When used with respect to the compensation paid or that would have been paid to a qualified employee for any period during which the qualified employee participates in qualified reserve component duty, the term 'qualified compensation' means—

''(i) compensation which is normally contingent on the qualified employee's presence for work and which would be deductible from the taxpayer's gross income under section 162(a)(1) if the qualified employee were present and receiving such compensation,

''(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and with respect to which the number of days the qualified employee participates in qualified reserve component duty does not result in any reduction in the amount of vacation time, sick leave, or other nonspecific leave previously credited to or earned by the qualified employee, and

''(iii) group health plan costs (if any) with respect to the qualified employee.

''(D) QUALIFIED EMPLOYEE.—The term 'qualified employee' means a person who—

''(i) has been an employee of the taxpayer for the 91-day period immediately preceding the period during which the employee participates in qualified reserve component duty, and

''(ii) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as defined in sections 10142 and 10101 of title 10, United States Code.

''(2) QUALIFIED REPLACEMENT EMPLOYEES.—

''(A) IN GENERAL.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to the lesser of—

''(i) the individual's qualified compensation attributable to service rendered as a qualified replacement employee, or

''(ii) $6,000.

The employment credit, with respect to all qualified replacement employees, is equal to the sum of the employment credits for each qualified replacement employee under this subsection.

''(B) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified replacement employee, the term 'qualified compensation' means—

''(i) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

''(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

''(iii) group health plan costs (if any) with respect to the qualified replacement employee.

''(C) QUALIFIED REPLACEMENT EMPLOYEE.—The term 'qualified replacement employee' means an individual who is hired to replace a qualified employee or a qualified self-employed taxpayer, but only with respect to the period during which such employee or taxpayer participates in qualified reserve component duty, including time spent in travel status.

''(c) SELF-EMPLOYMENT CREDIT.—For purposes of this section—

''(1) IN GENERAL.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to the lesser of—

''(A) the excess, if any, of—

''(i) the self-employed taxpayer's average daily self-employment income for the taxable year over

''(ii) the average daily military pay and allowances received by the taxpayer during the taxable year, while participating in qualified reserve component duty to the exclusion of the taxpayer's normal self-employment duties for the number of days the taxpayer participates in qualified reserve component duty during the taxable year, including time spent in a travel status, or

''(B) $6,000.

''(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a self-employed taxpayer—

''(A) the term 'average daily self-employment income' means the self-employment income (as defined in section 1402(b)) of the taxpayer for the taxable year plus the amount paid for insurance which constitutes medical care for the taxpayer for such year (within the meaning of section 162(l)) divided by the difference between—

''(i) 365, and

''(ii) the number of days the taxpayer participates in qualified reserve component duty during the taxable year, including time spent in a travel status, and

''(B) the term 'average daily military pay and allowances' means—

''(i) the amount paid to the taxpayer during the taxable year as military pay and allowances on account of the taxpayer's participation in qualified reserve component duty, divided by

''(ii) the total number of days the taxpayer participates in qualified reserve component duty, including time spent in travel status.

''(3) QUALIFIED SELF-EMPLOYED TAXPAYER.—The term 'qualified self-employed taxpayer' means a taxpayer who—

''(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

''(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States.

''(d) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

''(e) LIMITATIONS.—

''(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(B) the tentative minimum tax for the taxable year.

''(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

''(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

''(B) the 2 succeeding taxable years.

''(3) DISALLOWANCE WITH RESPECT TO PERSONS ORDERED TO ACTIVE DUTY FOR TRAINING.—No credit shall be allowed under subsection (a) to a taxpayer with respect to any period by taking into account any person who is called or ordered to active duty for any of the following types of duty:

''(A) Active duty for training under any provision of title 10, United States Code.

''(B) Training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code.

''(C) Full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

''(f) GENERAL DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) SMALL BUSINESS EMPLOYER.—

''(A) IN GENERAL.—The term 'small business employer' means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

''(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(2) MILITARY PAY AND ALLOWANCES.—The term 'military pay' means pay as that term is defined in section 101(21) of title 37, United States Code, and the term 'allowances' means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

''(3) QUALIFIED RESERVE COMPONENT DUTY.—The term 'qualified reserve component duty' means active duty performed for a period not less than 180 days under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

''(4) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.''.

(b) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rule for employment credits) is amended—

(1) by inserting ''or compensation'' after ''salaries'', and

(2) by inserting ''30B,'' before ''45A(a)''.

(c) CONFORMING AMENDMENT.—Section 55(c)(2) of the Internal Revenue Code of 1986 is amended by inserting ''30B(e)(1),'' after ''30(b)(3),''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end 30A the following new item:

''Sec. 30B. Employer wage credit for activated military reservists.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1333. REDUCED MINIMUM AGE FOR ELIGIBILITY FOR NON-REGULAR SERVICE RETIRED PAY.

Section 12731(a)(1) of title 10, United States Code, is amended by striking ''60 years of age'' and inserting ''55 years of age''.

Subtitle D—Health Care Benefits

SEC. 1341. EXPANDED ELIGIBILITY OF READY RESERVE MEMBERS UNDER TRICARE PROGRAM.

(a) UNCONDITIONAL ELIGIBILITY.—Subsection (a) of section 1076b of title 10, United States Code, is amended by striking ''and receive benefits'' and all that follows through ''an employer-sponsored health benefits plan''.

(b) PERMANENT AUTHORITY.—Subsection (l) of such section is repealed.

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking subsections (i) and (j); and

(2) by redesignating subsection (k) as subsection (i).

SEC. 1342. CONTINUATION OF NON-TRICARE HEALTH BENEFITS PLAN COVERAGE FOR CERTAIN RESERVES CALLED OR ORDERED TO ACTIVE DUTY AND THEIR DEPENDENTS.

(a) REQUIRED CONTINUATION.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078a the following new section:

''§ 1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty

''(a) PAYMENT OF PREMIUMS.—The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for the members of the family of an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subsection (g).

''(b) ELIGIBLE MEMBER; FAMILY MEMBERS.—(1) A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subsection (a) while serving on active duty for a period of more than 30 days pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title during a war or a national emergency declared by the President or Congress.

''(2) For the purposes of this section, the members of the family of an eligible reserve component member include only the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

''(c) QUALIFIED HEALTH BENEFITS PLAN COVERAGE.—For the purposes of this section, health benefits plan coverage for the members of the family of a reserve component member called or ordered to active duty is qualified health benefits plan coverage if—

''(1) the coverage was in force on the date on which the Secretary notified the reserve component member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order;

''(2) on such date, the coverage applied to the reserve component member and members of the family of the reserve component member; and

''(3) the coverage has not lapsed.

''(d) APPLICABLE PREMIUM.—The applicable premium payable under this section for continuation of health benefits plan coverage for the family members of a reserve component member is the amount of the premium payable by the member for the coverage of the family members.

''(e) BENEFITS COVERAGE CONTINUATION PERIOD.—The benefits coverage continuation period under this section for qualified health benefits plan coverage for the family members of an eligible reserve component member called or ordered to active duty is the period that—

''(1) begins on the date of the call or order; and

''(2) ends at the end of the day on which the active duty terminates.

''(f) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

''(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for an eligible reserve component member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

''(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

''(g) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

''1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty.''.

(b) APPLICABILITY.—Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department before, on, or after the date of the enactment of this Act, but only with respect to qualified health benefits plan coverage (as described in subsection (c) of such section) that is in effect on or after the date of the enactment of this Act.

SA 3194. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 247, after line 21, insert the following:

SEC. 717. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES OVERSEAS.

Section 1093(b) of title 10, United States Code, is amended—

(1) by inserting ''in the United States'' after ''treatment facility''; and

(2) by inserting ''in the United States'' after ''Department of Defense''.

SA 3195. Mrs. MURRAY (for herself and Mr. EDWARDS) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

SEC. ___. CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking ''There is'' and inserting ''(a) IN GENERAL.—There is'';

(2) in subsection (a), as so designated, by inserting ''(except section 658T)'' after ''this subchapter''; and

(3) by adding at the end the following:

''(b) CHILD CARE FOR CERTAIN MILITARY DEPENDENTS.—There is authorized to be appropriated to carry out section 658T $200,000,000 for each of fiscal years 2005 through 2009.''.

(b) CHILD CARE ASSISTANCE.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by adding at the end the following:

''SEC. 658T. CHILD CARE ASSISTANCE FOR MILITARY DEPENDENTS.

''(a) IN GENERAL.—The Secretary shall make grants to eligible spouses to assist the spouses in paying for the cost of child care services provided to dependents by eligible child care providers. In making the grants, the Secretary shall give priority to eligible spouses of qualified members on active duty for a period of more than 6 months.

''(b) DEFINITIONS.—In this section:

''(1) ACTIVE DUTY.—The term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

''(2) ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.—The term 'active duty for a period of more than 30 days' has the meaning given the term in section 101(d)(2) of title 10, United States Code.

''(3) DEPENDENT.—The term 'dependent' means an individual who is—

''(A) a dependent, as defined in section 401 of title 37, United States Code, except that such term does not include a person described in paragraph (1) or (3) of subsection (a) of such section; and

''(B) an individual described in subparagraphs (A) and (B) of section 658P(4).

''(4) ELIGIBLE SPOUSE.—The term 'eligible spouse' means a person who—

''(A) is a parent of one or more dependents of a qualified member; and

''(B) has the primary responsibility for the care of one or more such dependents.

''(5) QUALIFIED MEMBER.—The term 'qualified member' means a member of the reserve components of the Armed Forces on active duty for a period of more than 30 days.

''(c) APPLICATIONS.—To be eligible to receive a grant under this section, a spouse shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a description of the eligible child care provider who provides the child care services assisted through the grant.

''(d) RULE.—The provisions of this subchapter, other than section 658P and provisions referenced in section 658P, that apply to assistance provided under this subchapter shall not apply to assistance provided under this section.''.

(c) CONFORMING AMENDMENTS.—Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''appropriated under this subchapter'' and inserting ''appropriated under section 658B(a)''; and

(B) in paragraph (2), by striking ''appropriated under section 658B'' and inserting ''appropriated under section 658(a)''; and

(2) in subsection (b)(1), by striking ''appropriated under section 658B'' and inserting ''appropriated under section 658(a)''.

SA 3196. Mr. DURBIN (for himself, Ms. MIKULSKI, Ms. LANDRIEU, Mrs. MURRAY, Mr. DAYTON, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the ''Reservists Pay Security Act of 2004''.

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

(2) CONDITIONAL RETROACTIVE APPLICATION.—

(A) IN GENERAL.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after October 11, 2002 through the date of enactment of this Act, subject to the availability of appropriations.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for purposes of subparagraph (A).

SA 3197. Mr. DAYTON (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 172, strike line 11 and all that follows through page 176, line 21.

SA 3198. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 269, line 20, strike ''$150,000,000'' and insert ''$500,000,000''.

SA 3199. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 195, between lines 10 and 11, insert the following:

SEC. 868. AVAILABILITY OF FEDERAL SUPPLY SCHEDULE SUPPLIES AND SERVICES TO UNITED SERVICE ORGANIZATIONS, INCORPORATED.

Section 220105(7) of title 36, United States Code, is amended by inserting before the semicolon at the end the following: '', including to acquire from the General Services Administration supplies and services on the Federal Supply Schedule of the General Services Administration as if the corporation were an executive agency of the United States''.

SA 3200. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1055. ASSISTANCE TO FOREIGN MILITARY AND SECURITY FORCES FOR PEACEKEEPING AND PEACE ENFORCEMENT OPERATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, within the limitation established in subsection (c), the Secretary of Defense may—

(1) with the concurrence of the Secretary of State, provide assistance in fiscal year 2005 to military or security forces of a country to enhance their capability to participate in an international peacekeeping or peace enforcement operation; or

(2) transfer funds to the Secretary of State for the purpose of providing such assistance.

(b) TYPES OF ASSISTANCE.—Assistance provided under subsection (a) may include equipment, supplies, services, training, and funding.

(c) LIMITATION.—The cost of assistance provided under subsection (a) may not exceed $100,000,000 in fiscal year 2005.

(d) CONSTRUCTION OF AUTHORITY.—The authority to provide assistance under subsection (a) is in addition to any other authority to provide assistance to foreign nations or forces under any other provision of law.

SA 3201. Mr. KENNEDY (for himself, Mrs. MURRAY, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title III, insert the following:

SEC. 353. EMERGENCY FUNDING FOR LOCAL EDUCATIONAL AGENCIES ENROLLING MILITARY DEPENDENT CHILDREN.

(a) SHORT TITLE.—This section may be cited as the ''Help for Military Children Affected by War Act of 2004''.

(b) GRANTS AUTHORIZED.—The Secretary of Defense is authorized to award grants, from distributions under subsection (e), to eligible local educational agencies for the additional education, counseling, and other needs of military dependent children who are affected by war or dramatic military decisions.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency that—

(A) had a number of military dependent children in average daily attendance in the schools served by the local educational agency during the school year preceding the school year for which the determination is made, that—

(i) equaled or exceeded 20 percent of the number of all children in average daily attendance in the schools served by such agency during the preceding school year; or

(ii) was 1,000 or more,

whichever is less; and

(B) is designated by the Secretary of Defense as impacted by—

(i) Operation Iraqi Freedom;

(ii) Operation Enduring Freedom;

(iii) high operations tempo;

(iv) military base realignment or closure; or

(v) privatization of military housing.

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) MILITARY DEPENDENT CHILD.—The term ''military dependent child'' means a child described in subparagraph (B) or (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(d) USE OF FUNDS.—Grant funds provided under this section shall be used for—

(1) tutoring, after-school, and dropout prevention activities for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(2) professional development of teachers, principals, and counselors on the needs of military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(3) counseling and other comprehensive support services for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B), including the hiring of a military-school liaison; and

(4) other basic educational activities associated with an increase in military dependent children.

(e) DISTRIBUTIONS.—

(1) EMERGENCY ALLOCATION PETITION.—Notwithstanding any other provision of this subsection and from not more than 10 percent of funds appropriated under subsection (f)(1) for a fiscal year, the Secretary of Defense may allocate, on a pro rata basis, such funds to eligible local educational agencies that anticipate a rapid increase in military dependent children and petition the Secretary of Defense for an emergency allocation of such funds.

(2) PRO RATA DISTRIBUTION.—Each eligible local educational agency not receiving funds under paragraph (1) for a fiscal year shall receive a grant under this section for the fiscal year in an amount that bears the same relation to the funds appropriated under subsection (f)(1) and not allocated under paragraph (1) for the fiscal year that do not exceed $20,000,000 as the number of military dependent children who were in average daily attendance in the schools served by such agency (as determined by the Secretary of Education) for the preceding or current school year, whichever is greater, bears to the total number of military dependent children who were in average daily attendance in the schools served by all eligible local educational agencies in the preceding school year (as so determined).

(3) HOLD HARMLESS.—The Secretary of Defense shall distribute funds appropriated under subsection (f)(1) and not allocated under paragraph (1) for a fiscal year that are in excess of $20,000,000 on a pro rata basis to each eligible local educational agency not receiving funds under paragraph (1) for the fiscal year that experiences (A) a decrease of 20 percent or more in the number of military dependent children who were in average daily attendance in the schools served by such agency, (B) a decrease of 20 percent or more in the amount of funds received under section 8003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)), or (C) a decrease of 1,000 or more military dependent children who were in average daily attendance in the schools served by such agency, from the school year preceding the school year for which the determination is made to the school year for which the determination is made.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Defense such sums as may be necessary to carry out this section for fiscal year 2005 and each of the 2 succeeding fiscal years.

(2) SPECIAL RULE.—Funds appropriated under paragraph (1) are in addition to any funds made available to local educational agencies under section 351 or 352 of this Act or section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703).

SA 3202. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 131, between lines 17 and 18, insert the following:

SEC. 653. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN FEDERAL AGRICULTURAL LOAN OBLIGATIONS.

The Consolidated Farm and Rural Development Act is amended by inserting after section 331F (7 U.S.C. 1981f) the following:

"SEC. 332. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN AGRICULTURAL LOAN OBLIGATIONS.

"(a) DEFINITION OF MOBILIZED MILITARY RESERVIST.—In this section, the term 'mobilized military reservist' means an individual who—

"(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

"(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds.

"(b) FORGIVENESS OF INTEREST PAYMENTS DUE WHILE BORROWER IS A MOBILIZED MILITARY RESERVIST.—Any requirement that a borrower of a direct loan made under this title make any interest payment on the loan that would otherwise be required to be made while the borrower is a mobilized military reservist is rescinded.

"(c) DEFERRAL OF PRINCIPAL PAYMENTS DUE WHILE OR AFTER BORROWER IS A MOBILIZED MILITARY RESERVIST.—The due date of any payment of principal on a direct loan made to a borrower under this title that would otherwise be required to be made while or after the borrower is a mobilized military reservist is deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

"(d) NONACCRUAL OF INTEREST.—Interest on a direct loan made to a borrower described in this section shall not accrue during the period the borrower is a mobilized military reservist.

"(e) BORROWER NOT CONSIDERED TO BE DELINQUENT OR RECEIVING DEBT FORGIVENESS.—Notwithstanding section 373 or any other provision of this title, a borrower who receives assistance under this section shall not, as a result of the assistance, be considered to be delinquent or receiving debt forgiveness for purposes of receiving a direct or guaranteed loan under this title.".

SA 3203. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. PERIODIC DETAILED ACCOUNTING FOR OPERATIONS OF THE GLOBAL WAR ON TERRORISM.

(a) MONTHLY ACCOUNTING.—Not later than 30 days after the end of each month, the Secretary of Defense shall submit to the chairmen and ranking members of the Committees on Armed Services of the Senate and the House of Representatives and to all the members of the Committees on Appropriations of the Senate and the House of Representatives, for such month for each operation described in subsection (b), a full accounting of all costs incurred for such operation during such month and all amounts expended during such month for such operation, and the purposes for which such costs were incurred and such amounts were expended.

(b) OPERATIONS COVERED.—The operations referred to in subsection (a) are as follows:

(1) Operation Iraqi Freedom.

(2) Operation Enduring Freedom.

(3) All other operations relating to the Global War on Terrorism.

(c) REQUIREMENT FOR COMPREHENSIVENESS.—For the purpose of providing a full and complete accounting of the costs and expenditures under subsection (a) for operations described in subsection (b), the Secretary shall account in the monthly submission under subsection (a) for all costs and expenditures that are reasonably attributable to such operations, including personnel costs.

SA 3204. Mrs. CLINTON (for herself, Mr. LEAHY, and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, after line 17, insert the following:

SEC. 2844. PROHIBITION ON CLOSURE OF COMMISSARY STORES, MWR RETAIL FACILITIES, AND DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS WITHOUT AUTHORIZATION OF CONGRESS.

(a) PROHIBITION.—Notwithstanding any other provision of law, the Secretary of Defense may not close any commissary store, MWR retail facility, or Department of Defense dependent elementary or secondary school without the specific authorization of Congress for such action by law.

(b) COMPTROLLER GENERAL REPORT.—Not later than 90 days 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 policy of the Department of Defense, and the criteria utilized by the Department, with respect to the closure of commissary stores, MWR retail facilities, and Department of Defense dependent elementary and secondary schools, including an assessment whether or not such policy and criteria are consistent with Department policies and procedures on the preservation of the quality of life of members of the Armed Forces.

(c) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services of the Senate; and

(B) the Committee on Armed Services of the House of Representatives.

(2) The term "MWR retail facility" means an exchange store or other revenue-generating facility operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces.

SA 3205. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction,

and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 18, strike line 11, strike ''**AUTHORIZATION OF APPROPRIATIONS FOR**''.

On page 18, strike lines 15 through 24, and insert the following:

(a) AMOUNT.—Of the amount authorized to be appropriated for the Army for fiscal year 2005 for other procurement under section 101(5), $610,000,000 shall be available for both of the purposes described in subsection (b) and may be used for either or both of such purposes.

(b) PURPOSES.—The purposes referred to in subsection (a) are as follows:

On page 19, beginning on line 7, strike ''authorized to be appropriated in'' and insert ''available under''.

On page 19, line 17, strike ''authorized to be appropriated'' and insert ''available under''.

SA 3206. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 25, line 25, strike ''$9,698,958,000'' and insert ''$9,686,958,000''.

SA 3207. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 318, line 2, strike ''$980,557,000'' and insert ''$1,062,463,000''.

SA 3208. Mr. WARNER proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. TECHNICAL CORRECTION TO REFERENCE TO CERTAIN ANNUAL REPORTS.

Section 2474(f)(2) of title 10, United States Code, is amended by striking ''section 2466(e)'' and inserting ''section 2466(d)''.

SA 3209. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of title VII, add the following:

SEC. . CONTINUATION OF SUB-ACUTE CARE FOR TRANSITION PERIOD.

Section 1074j(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4) The Secretary of Defense may take such actions as are necessary to ensure that there is an effective transition in the furnishing of part-time or intermittent home health care benefits for covered beneficiaries who were receiving such benefits before the establishment of the program under this section. The actions taken under this paragraph may include the continuation of such benefits on an extended basis for such time as the Secretary determines appropriate.''.

SA 3210. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of subtitle B of title VII, insert the following:

SEC. 717. TEMPORARY AUTHORITY FOR WAIVER OF COLLECTION OF PAYMENTS DUE FOR CHAMPUS BENEFITS RECEIVED BY DISABLED PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) AUTHORITY TO WAIVE DEBT.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, may waive (in whole or in part) the collection of payments otherwise due from a person described in subsection (b) for health benefits received by such person under section 1086 of title 10, United States Code, after the termination of that person's eligibility for such benefits.

(2) If the Secretary of Defense waives collection of payments from a person under paragraph (1), the Secretary may also authorize a continuation of benefits for such person under such section 1086 for a period ending not later than the end of the period specified in subsection (c) of this section.

(b) ELIGIBLE PERSONS.—A person is eligible for relief under subsection (a)(1) if—

(1) the person is described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) except for such paragraph, the person would have been eligible for the health benefits under such section; and

(3) at the time of the receipt of such benefits—

(A) the person satisfied the criteria specified in paragraph (2)(B) of such subsection (d); and

(B) the person was unaware of the loss of eligibility to receive the health benefits.

(c) PERIOD OF APPLICABILITY.—The authority provided under this section to waive collection of payments and to continue benefits shall apply, under terms and conditions prescribed by the Secretary of Defense, to health benefits provided under section 1086 of title 10, United States Code, during the period beginning on July 1, 1999, and ending at the end of December 31, 2004.

(d) CONSULTATION WITH OTHER ADMINISTERING SECRETARIES.—(1) The Secretary of Defense shall consult with the other administering Secretaries in exercising the authority provided in this section.

(2) In this subsection, the term ''administering Secretaries'' has the meaning given such term in section 1072(3) of title 10, United States Code.

SA 3211. Mr. WARNER (for himself and Mr. ALLARD) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Strike section 3120 and insert the following:

SEC. 3120. LOCAL STAKEHOLDER ORGANIZATIONS FOR DEPARTMENT OF ENERGY ENVIRONMENTAL MANAGEMENT 2006 CLOSURE SITES.

(a) ESTABLISHMENT.—(1) The Secretary of Energy shall establish for each Department of Energy Environmental Management 2006 closure site a local stakeholder organization having the responsibilities set forth in subsection (c).

(2) The local stakeholder organization shall be established in consultation with interested elected officials of local governments in the vicinity of the closure site concerned.

(b) COMPOSITION.—A local stakeholder organization for a Department of Energy Environmental Management 2006 closure site under subsection (a) shall be composed of such elected officials of local governments in the vicinity of the closure site concerned as the Secretary considers appropriate to carry out the responsibilities set forth in subsection (c) who agree to serve on the organization, or the designees of such officials.

(c) RESPONSIBILITIES.—A local stakeholder organization for a Department of Energy Environmental Management 2006 closure site under subsection (a) shall—

(1) solicit and encourage public participation in appropriate activities relating to the closure and post-closure operations of the site;

(2) disseminate information on the closure and post-closure operations of the site to the State government of the State in which the site is located, local and Tribal governments in the vicinity of the site, and persons and entities having a stake in the closure or post-closure operations of the site;

(3) transmit to appropriate officers and employees of the Department of Energy questions and concerns of governments, persons, and entities referred to paragraph (2) on the closure and post-closure operations of the site; and

(4) perform such other duties as the Secretary and the local stakeholder organization jointly determine appropriate to assist the Secretary in meeting post-closure obligations of the Department at the site.

(d) DEADLINE FOR ESTABLISHMENT.—The local stakeholder organization for a Department of Energy Environmental Management 2006 closure site shall be established not later than six months before the closure of the site.

(e) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to local stakeholder organizations under this section.

(f) DEPARTMENT OF ENERGY ENVIRONMENTAL MANAGEMENT 2006 CLOSURE SITE DEFINED.—In this section, the term ''Department of Energy Environmental Management 2006 closure site'' means each clean up site of the Department of Energy scheduled by the Department as of January 1, 2004, for closure in 2006.

SA 3212. Mr. LEVIN (for Mr. BYRD) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy,

to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 177, strike lines 14 through 24, and insert the following:

(b) INCREASE AND REALIGNMENT OF WORKFORCE.—(1)(A) During fiscal years 2005, 2006, and 2007, the Secretary of Defense shall increase the number of persons employed in the defense acquisition and support workforce as follows:

(i) During fiscal year 2005, to 105 percent of the baseline number (as defined in subparagraph (B)).

(ii) During fiscal year 2006, to 110 percent of the baseline number.

(iii) During fiscal year 2007, to 115 percent of the baseline number.

(B) In this paragraph, the term ''baseline number'', with respect to persons employed in the defense acquisition and support workforce, means the number of persons employed in such workforce as of September 30, 2003 (determined on the basis of full-time employee equivalence).

(C) The Secretary of Defense may waive a requirement in subparagraph (A) and, subject to subsection (a), employ in the defense acquisition and support workforce a lesser number of employees if the Secretary determines and certifies to the congressional defense committees that the cost of increasing such workforce to the larger size as required under that subparagraph would exceed the savings to be derived from the additional oversight that would be achieved by having a defense acquisition and support workforce of such larger size.

(2) During fiscal years 2005, 2006, and 2007, the Secretary of Defense may realign any part of the defense acquisition and support workforce to support reinvestment in other, higher priority positions in such workforce.

SA 3213. Mr. LEVIN (for Mr. REED) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Strike section 1005, and insert the following:

SEC. 1005. UNIFORM FUNDING AND MANAGEMENT OF SERVICE ACADEMY ATHLETIC AND RECREATIONAL EXTRACURRICULAR PROGRAMS.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 4359. Athletic and recreational extracurricular programs: uniform funding

''The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Academy that—

''(1) is not considered a morale, welfare, or recreation program referred to in such section;

''(2) is funded out of appropriated funds;

''(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

''(4) is not operated as a private organization.''.

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

''4359. Athletic and recreational extracurricular programs: uniform funding.''.

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 6978. Athletic and recreational extracurricular programs: uniform funding

''The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Naval Academy that—

''(1) is not considered a morale, welfare, or recreation program referred to in such section;

''(2) is funded out of appropriated funds;

''(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

''(4) is not operated as a private organization.''.

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

''6978. Athletic and recreational extracurricular programs: uniform funding.''.

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 9358. Athletic and recreational extracurricular programs: uniform funding

''The authority and conditions provided in section 2494 of this title shall also apply to any athletic or recreational extracurricular program of the Academy that—

''(1) is not considered a morale, welfare, or recreation program referred to in such section;

''(2) is funded out of appropriated funds;

''(3) is supported by a supplemental mission nonappropriated fund instrumentality; and

''(4) is not operated as a private organization.''.

(2) The table of sections at the beginning of such title is amended by adding at the end the following new item:

''9358. Athletic and recreational extracurricular programs: uniform funding.''.

(d) EFFECTIVE DATE AND APPLICABILITY.—This section and the amendments made by this section shall take effect on October 1, 2004, and shall apply with respect to funds appropriated for fiscal years beginning on or after such date.

SA 3214. Mr. WARNER (for Mr. SESSIONS) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. LAND EXCHANGE, MAXWELL AIR FORCE BASE, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the City of Montgomery, Alabama (in this section referred to as the ''City''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 28 acres and including all of the Maxwell Heights Housing site and located at Maxwell Air Force Base, Alabama.

(b) CONSIDERATION.—(1) As consideration for the conveyance of property under subsection (a), the City shall convey to the United States all right, title, and interest of the City to a parcel of real property, including any improvements thereon, consisting of approximately 35 acres and designated as project AL 6–4, that is owned by the City and is contiguous to Maxwell Air Force Base, for the purpose of allowing the Secretary to incorporate such property into a project for the acquisition or improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code. The Secretary shall have administrative jurisdiction over the real property received under this subsection.

(2) If the fair market value of the real property received under paragraph (1) is less than the fair market value of the real property conveyed under subsection (a) (as determined pursuant to an appraisal acceptable to the Secretary), the Secretary may require the City to provide, pursuant to negotiations between the Secretary and the City, in-kind consideration the value of which when added to the fair market value of the property conveyed under subsection (b) equals the fair market value of the property conveyed under subsection (a).

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under subsections (a) and (b), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyances. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

SA 3215. Mr. LEVIN (for Mr. SARBANES (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

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

SEC. 2830. LAND EXCHANGE, NAVAL AIR STATION, PATUXENT RIVER, MARYLAND.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the State of Maryland (in this section referred to as ''State''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately five acres at Naval

Air Station, Patuxent River, Maryland, and containing the Point Lookout Lighthouse, other structures related to the lighthouse, and an archaeological site pertaining to the military hospital that was located on the property during the Civil War. The conveyance shall include artifacts pertaining to the military hospital recovered by the Navy and held at the installation.

(b) PROPERTY RECEIVED IN EXCHANGE.—As consideration for the conveyance of the real property under subsection (a), the State shall convey to the United States a parcel of real property consisting of approximately five acres located in Point Lookout State Park, St. Mary's County, Maryland.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SA 3216. Mr. FRIST (for Mr. DOMENICI) proposed an amendment to the bill S. 1848, to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon; as follows:

On page 4, line 22, strike ''1999'' and insert ''2004''.

SA 3217. Mr. FRIST (for Mr. LEAHY) proposed an amendment to the bill H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; as follows:

At the end, add the following:

SEC. ___. GREEN MOUNTAIN NATIONAL FOREST EXPANSION.

(a) IN GENERAL.—The boundaries of the Green Mountain National Forest are modified to include all parcels of land depicted on the forest maps entitled ''Green Mountain Expansion Area Map I'' and ''Green Mountain Expansion Area Map II'', each dated February 20, 2002, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(b) MANAGEMENT.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Green Mountain National Forest, as adjusted by this Act, shall be considered to be the boundaries of the national forest as of January 1, 1965.

SA 3218. Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 882, to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes; as follows:

On page 186, between lines 6 and 7, insert the following:

(e) DIRECTOR OF INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—Subsection (e) of section 7802, as amended by subsection (d), is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) DIRECTOR.—The Chairperson of the Oversight Board shall, without regard to the provisions of title 5, United Stated Code, governing appointments in the competitive service, appoint a Director for the Oversight Board. The Director shall be paid at the same rate as the highest-rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.''.

On page 186, line 7, strike ''(e)'' and insert ''(f)''.

On page 201, strike lines 17 through 21, and insert the following:

(1) by striking ''ANNUAL'' in the heading and inserting ''BIENNIAL'',

(2) by inserting ''every 2 years (beginning in 2004)'' after ''one of the semiannual reports'' in the matter preceding subparagraph (A),

On page 206, lines 6 and 7, strike ''**AND REFUND ANTICIPATION LOAN PROVIDERS**'' and insert ''**, REFUND ANTICIPATION LOAN PROVIDERS, AND PAYROLL AGENTS**''.

On page 206, lines 12 and 13, strike ''**AND REFUND ANTICIPATION LOAN PROVIDERS**'' and insert ''**, REFUND ANTICIPATION LOAN PROVIDERS, AND PAYROLL AGENTS**''.

On page 206, lines 18 and 19, strike ''and refund anticipation loan providers'' and insert '', refund anticipation loan providers, and payroll agents''.

On page 206, line 20, strike ''and''.

On page 207, line 2, strike the period and insert '', and''.

On page 207, between lines 2 and 3, insert the following:

''(C) to require the posting of a reasonable bond by each registered payroll agent.

On page 208, lines 14 and 15, strike ''or refund anticipation loan provider'' and insert '', refund anticipation loan provider, or payroll agent''.

On page 212, between lines 8 and 9, insert the following:

SEC. 142. JOINT TASK FORCE ON OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—The Secretary of the Treasury shall establish a joint task force—

(1) to review the Internal Revenue Service's determinations with respect to offers which raise equitable, public policy, or economic hardship grounds for compromise of a tax liability under section 7122 of the Internal Revenue Code of 1986,

(2) to review the extent to which the Internal Revenue Service has used its authority to resolve longstanding cases by forgoing penalties and interest which have accumulated as a result of delay in determining the taxpayer's liability,

(3) to provide recommendations as to whether the Internal Revenue Service's evaluation of offers-in-compromise should include—

(A) the taxpayer's compliance history,

(B) errors by the Internal Revenue Service with respect to the underlying tax,

(C) wrongful acts by a third party which gave rise to the liability, and

(D) whether the taxpayer has made payments on the liability, and

(4) to annually report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (beginning in 2005) regarding such review and recommendations.

(b) MEMBERS OF JOINT TASK FORCE.—The membership of the joint task force under subsection (a) shall consist of 1 representative each from the Department of the Treasury, the Internal Revenue Service Oversight Board, the Office of the Chief Counsel for the Internal Revenue Service, the Office of the Taxpayer Advocate, the Office of Appeals, and the division of the Internal Revenue Service charged with operating the offer-in-compromise program.

(c) REPORT OF NATIONAL TAXPAYER ADVOCATE.—

(1) IN GENERAL.—Clause (i) of section 7803(c)(2)(B) (relating to annual reports), as amended by this Act, is amended by striking ''and'' at the end of subclause (X), by redesignating subclause (XI) as subclause (XII), and by inserting after subclause (X) the following new subclause:

''(XI) include a list of the factors taxpayers have raised to support their claims for offers-in compromise relief, the number of such offers submitted, accepted, and rejected, the number of such offers appealed, the period during which review of such offers have remained pending, and the efforts the Internal Revenue Service has made to correctly identify such offers, including the training of employees in identifying and evaluating such offers.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to reports in calendar year 2005 and thereafter.

On page 215, after line 22, add the following:

SEC. 153. PUBLIC SUPPORT BY INDIAN TRIBAL GOVERNMENTS.

(a) IN GENERAL.—Section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) is amended by striking ''and'' at the end of subparagraph (C) of paragraph (6), by striking the period at the end of subparagraph (B) of paragraph (7) and inserting ''; and'', and by adding at the end the following new paragraph:

''(8) for purposes of—

''(A) determining support of an organization described in section 170(b)(1)(A)(vi), and

''(B) determining whether an organization is described in paragraph (1) or (2) of section 509(a) for purposes of section 509(a)(3).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) support received before, on, or after the date of the enactment of this Act, and

(2) the determination of the status of any organization with respect to any taxable year beginning after such date of enactment.

SEC. 154. PAYROLL AGENTS SUBJECT TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX, OR ATTEMPT TO EVADE OR DEFEAT TAX.

(a) IN GENERAL.—Section 6672(a) is amended by inserting '', including any payroll agent,'' after ''Any person''.

(b) PENALTY NOT SUBJECT TO DISCHARGE IN BANKRUPTCY.—Section 6672(a) is amended by adding at the end the following new sentence: ''Notwithstanding any other provision

of law, no penalty imposed under this section may be discharged in bankruptcy.''.

(c) CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to create any inference with respect to the interpretation of section 6672 of the Internal Revenue Code of 1986 as such section was in effect on the day before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring after the date of the enactment of this Act.

Beginning on page 224, line 14, strike all through page 225, line 8, and insert the following:

SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404(g) (relating to suspension of interest and certain penalties where Secretary fails to contact taxpayer) is amended by striking ''1-year period (18-month period in the case of taxable years beginning before January 1, 2004)'' both places it appears and inserting ''18-month period''.

(b) EXCEPTION FOR GROSS MISSTATEMENT.—Section 6404(g)(2) (relating to exceptions) is amended by striking ''or'' at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

''(D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; or''.

(c) EXCEPTION FOR REPORTABLE AND LISTED TRANSACTIONS.—Section 6404(g)(2) (relating to exceptions), as amended by subsection (b), is amended by striking ''or'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any interest, penalty, addition to tax, or additional amount with respect to any reportable transaction or listed transaction (as defined in 6707A(c)); or''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—The amendments made by subsection (c) shall apply with respect to interest accruing after May 5, 2004.

On page 232, line 15, insert ''which is 60 days after the date'' after ''date''.

On page 400, after line 16, add the following:

PART IV—OTHER REVENUE PROVISIONS

SEC. 641. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

''SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

''(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

''(1) a description of the acquisition,

''(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

''(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

''(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

''(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

''(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

''(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such shareholder, and

''(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.''.

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by redesignating clauses (ii) through (xviii) as clauses (iii) through (xix), respectively, and by inserting after clause (i) the following new clause:

''(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),''.

(2) Paragraph (2) of section 6724(d) (relating to definitions) is amended by redesignating subparagraphs (F) through (BB) as subparagraphs (G) through (CC), respectively, and by inserting after subparagraph (E) the following new subparagraph:

''(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

''Sec. 6043A. Returns relating to taxable mergers and acquisitions.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

SEC. 642. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking ''possessing—'' and all that follows through ''(B)'' and inserting ''possessing''.

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

''(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

''(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'''(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'''(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'''(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

''(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3219. Mr. FRIST (for Mr. INHOFE) proposed an amendment to the bill S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 40, line 9, strike ''$50,000,000'' and insert ''$60,000,000''.

On page 83, line 10, strike ''$50,000,000'' and insert ''$60,000,000''.

On page 164, between lines 20 and 21, insert the following:

''(3) MITIGATION IN CLOSED BASINS.—

''(A) IN GENERAL.—A State may use amounts deposited in the State fund for projects to protect existing roadways from anticipated flooding of a closed basin lake, including—

''(i) construction—

''(I) necessary for the continuation of roadway services and the impoundment of water, as the State determines to be appropriate; or

''(II) for a grade raise to permanently restore a roadway the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway in a closed lake basin;

''(ii) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

''(iii) monitoring and evaluations relating to proposed construction.

''(B) REIMBURSEMENT.—The Secretary may permit a State that expends funds under subparagraph (A) to be reimbursed for the expenditures through the use of amounts made available under section 125(c)(1).

On page 407, strike lines 3 through 8 and insert the following:

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking

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SA 3220. Mr. LOTT (for himself, Mr. COCHRAN, Mr. CHAMBLISS, Ms. SNOWE, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the

Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 2814. REPEAL OF AUTHORITY OF SECRETARY OF DEFENSE TO RECOMMEND THAT INSTALLATIONS BE PLACED IN INACTIVE STATUS DURING 2005 OF DEFENSE BASE CLOSURE AND REALIGNMENT.

Section 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking subsection (c).

SA 3221. Mr. LOTT (for himself, Ms. SNOWE, Mr. COCHRAN, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 280, after line 22, insert the following:

SEC. 1068. PRESERVATION OF SEARCH AND RESCUE CAPABILITIES OF THE FEDERAL GOVERNMENT.

The Secretary of Defense may not reduce or eliminate search and rescue capabilities at any military installation in the United States unless the Secretary first certifies to the Committees on Armed Services of the Senate and the House of Representatives that equivalent search and rescue capabilities will be provided, without interruption and consistent with the policies and objectives set forth in the United States National Search and Rescue Plan entered into force on January 1, 1999, by—

(1) the Department of Interior, the Department of Commerce, the Department of Homeland Security, the Department of Transportation, the Federal Communications Commission, or the National Aeronautics and Space Administration; or

(2) the Department of Defense, either directly or through a Department of Defense contract with an emergency medical service provider or other private entity to provide such capabilities.

SA 3222. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title X, insert the following:

SEC. 1055. MILITARY EDUCATIONAL EXCHANGES WITH SENIOR OFFICERS AND OFFICIALS OF TAIWAN.

(a) AUTHORITY FOR MILITARY EDUCATIONAL EXCHANGES WITH SENIOR OFFICERS AND OFFICIALS OF TAIWAN.—Chapter 41 of title 10, United States Code, is amended by inserting after section 712 the following new section:

"§ 712a. Military personnel exchanges: Taiwan

''(a) REQUIREMENT FOR PROGRAM.—The Secretary of Defense shall establish a program for exchange of senior defense personnel between the United States and the Republic of Taiwan.

''(b) PURPOSE.—The purpose of exchanges of personnel under the program is to improve the defenses of Taiwan against attack by the People's Liberation Army of the People's Republic of China.

''(c) SENIOR DEFENSE PERSONNEL.—The Department of Defense personnel authorized to participate in the exchange program under this section are as follows:

''(1) A general or flag officer of the armed forces.

''(2) A civilian official at the level of Deputy Assistant Secretary of Defense or above.

''(d) ACTIVITIES.—(1) Activities under the exchange program shall include the following:

''(A) Threat analysis.

''(B) Military doctrine.

''(C) Force planning.

''(D) Logistical support.

''(E) Intelligence collection and analysis.

''(F) Operational tactics, techniques, and procedures.

''(G) Civil-military relations, including parliamentary relations.

''(2) In the planning and conduct of activities under subparagraphs (A) through (F) of paragraph (1), particular emphasis shall be placed on issues relating to the defense of Taiwan against submarine and missile attacks.

''(e) LOCATIONS.—Activities under the exchange program shall be carried out in the United States and in Taiwan.

''(f) ACTIVITY DEFINED.—In this section, the term 'activity' includes an exercise, an event, and an opportunity for observation.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 713 the following new item:

''712a. Military personnel exchanges: Taiwan.''.

SA 3223. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 9 and 10, insert the following:

SEC. 642. ELIGIBILITY FOR REDUCED NON-REGULAR SERVICE RETIRED PAY BEFORE AGE 60.

(a) ELIGIBILITY BEGINNING AT AGE 55.—Section 12731(a)(1) of title 10, United States Code, is amended by striking ''60 years of age'' and inserting ''55 years of age''.

(b) REDUCED RETIRED PAY WHEN COMMENCED BEFORE AGE 60.—Section 12739 of such title is amended—

(1) in subsection (a), by inserting '', subject to subsection (d),'' after ''this chapter is'';

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following new subsection (d):

''(d) In the case of a person to whom payment of retired pay under this chapter commences after the person attains 55 years of age and before the person attains 60 years of age, the total amount of the monthly retired pay computed under subsections (a), (b), and (c) shall be reduced by the percentage specified for the age of the person when payment of the retired pay commences, as follows:

''Age (in years) when payment of retired pay commences:	Percentage by which retired pay is to be reduced:
55	12.5
56	9.0
57	6.0
58	3.5
59	1.5.''.

(c) CONTINUATION OF AGE 60 AS MINIMUM AGE FOR ELIGIBILITY FOR UNIFORMED SERVICES HEALTH BENEFITS.—Section 1074(b) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

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

''(2) Paragraph (1) does not apply to a member or former member entitled to retired pay for non-regular service under chapter 1223 of this title who is under 60 years of age.''.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act.

SA 3224. Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 290, after line 22, insert the following:

SEC. 1107. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76.

(a) ELIGIBILITY TO PROTEST.—(1) Section 3551(2) of title 31, United States Code, is amended to read as follows:

''(2) The term 'interested party'—

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

''(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, includes—

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

''(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.''.

(2)(A) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

"§ 3557. Expedited action in protests for public-private competitions

''For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.''.

(B) The chapter analysis at the beginning of such chapter is amended by inserting after

the item relating to section 3556 the following new item:

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

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

''(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.''.

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

(1) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004; and

(2) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A–76 on or after the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, May 19, 2004. The purpose of this meeting will be to mark up legislation to reauthorize child nutrition programs.

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

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 19, 2004, at 8:30 a.m., in open session, to continue to receive testimony on allegations of mistreatment of Iraqi prisoners.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 19, 2004, at 10:00 a.m. to conduct a hearing on ''Congressional Oversight of the IMF and World Bank.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 19, 2004, at 9:30 a.m. on from public service to private sector: Spinning the Revolving Door for Personal Gain.

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

COMMITTEE ON ENERGY AND NATIONAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 19 at 11:30 a.m., to consider pending calendar business.

Agenda

Agenda Item 1: S. 155—A bill to convey to the town of Frannie, WY, certain land withdrawn by the Commissioner of Reclamation.

Agenda Item 2: S. 180—A bill to establish the National Aviation Heritage Area, and for other purposes.

Agenda Item 3: S. 203—A bill to open certain withdrawn land in Big Horn County, WY, to locatable mineral development and bentonite mining.

Agenda Item 4: S. 211—A bill to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes.

Agenda Item 5: S. 323—A bill to establish the Atchafalaya National Heritage Area, LA.

Agenda Item 9: S. 1241—A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes.

Agenda Item 13: S. 1467—A bill to establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes.

Agenda Item 14: S. 1521—A bill to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post 22 in Phrump, NV, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community.

Agenda Item 16: S. 1727—A bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978.

Agenda Item 17: S. 2046—A bill to authorize the exchange of certain land in Everglades National Park.

Agenda Item 18: S. 2052—A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

Agenda Item 20: S. 2180—A bill to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

Agenda Item 21: S. 2319—A bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

Agenda Item 23: H.R. 961—To promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes.

Agenda Item 25: H.R. 1446—To support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes.

Agenda Item 26: H.R. 1658—To amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

In addition, the committee may turn to any other measures that are ready for consideration.

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

COMMITTEE ON FINANCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, May 19, 2004, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on Oversight and Nomination Hearing: The Treasury Department and Terrorism Financing; and, to consider the nominations of John O. Colvin, to be Judge of the U.S. Tax Court; Juan C. Zarate, to be Assistant Secretary for Terrorism Finance, U.S. Department of the Treasury; and, Stuart Levey to the Under Secretary for Enforcement, U.S. Department of the Treasury.

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 19, 2004 at 9:30 a.m. to hold a hearing on Iraq's Transition—The Way Ahead (Part II).

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, May 19, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on S.J. Res. 37, resolution to acknowledge a long history of official depredations and ill-conceived polices by the United States Government regarding Indian Tribes and offer an apology to all Native peoples on behalf of the United States, and S. 2277, a bill to amend the Act of November 2, 1966 (80 Stat. 1112) to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; to be followed immediately by a hearing on S. 1696, a bill to amend the Indian Self-Determination and Education Assistance Act to provide further self government by Indian tribes.

The PRESIDING OFFICER. Without objection, it so ordered.

SPECIAL COMMITTEE ON AGING

Mr. GREGG. Mr. President, I ask unanimous consent that the Special

Committee on Aging be authorized to meet Wednesday, May 19, 2004 from 2:30 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. GREGG. Mr. President, I ask unanimous consent that the subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 19th, at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 900, a bill to convey the Lower Yellowstone Irrigation Project, the savage unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the pertinent irrigation districts; S. 1876, a bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; S. 1957, a bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; S. 2304 and H.R. 3209, bills to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin Project; S. 2243, a bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska; H.R. 1648, a bill to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley water district and the Montecito water district; and H.R. 1732, a bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, TX, Water Recycling and Reuse Project, and for other purposes.

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

PRIVILEGES OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Elizabeth Prescott, a fellow in my office, be granted the privilege of the floor during consideration of this legislation.

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

Mr. REID. Mr. President, I ask unanimous consent that Bod Adebo of Senator BINGHAM's office be given the privilege of the floor during the pendency of S. 2400.

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

Mr. WYDEN. Mr. President, I ask unanimous consent that Matt Hiester, a legislative fellow in my office, be given floor privileges for the purpose of morning business.

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

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

Mr. FRIST. Mr. President, I want to discuss with the Democratic leader an approach that might enable us to move forward to conference on S. 1072, the 6-year reauthorization of our Nation's surface transportation laws.

While I am proud of the bipartisan agreements reached by the bill's managers that got us to this point, much work still remains, and it is important that we start as soon as possible.

There are significant differences with the House bill, so this is likely going to be a challenging process. I want to make sure all Senators know it is unrealistic to expect the House will agree with all our provisions and that we will likely have to make significant changes to S. 1072. But as we make those changes, we should make them together.

The transportation bill we passed this year was a model of bipartisan cooperation that was marked by good faith on both sides. That is the essence of the agreement I am proposing, a commitment from both sides that they will work in good faith in conference to get the best possible result. I have spoken to Senator INHOFE, who will chair the conference. He has agreed he will not pursue a conclusion to the conference, nor sign any conference report that would alter the text of S. 1072 in a way that undermines the bipartisan working relationship that has existed in the Senate.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the majority leader for his leadership. I have discussed this with my colleagues and can commit wholeheartedly to the good-faith process he has proposed. Our side understands that changes will have to be made, and we are not entering this process demanding a specific outcome on any provision. Instead, we are asking any changes to S. 1072 be the result of the mutual agreement of the lead Senate conferees acting in good faith.

By moving S. 1072 through the Senate, Senators INHOFE, BOND, JEFFORDS, and REID have already demonstrated they can make that process work. If the process should break down due to disagreements over either transportation policy or extraneous provisions, then we understand he and I will not bring such a conference report to the floor.

Mr. FRIST. That is correct, so long as the Democratic conferees are acting in good faith, and I have every expectation they will. Our goal is to reach a conference agreement that reflects the balance and broad bipartisan consensus S. 1072 achieves. That will be the test of good faith for both sides. I think we can do that, and we will not bring a bill to the Senate floor if it does not reflect that commitment.

Mr. DASCHLE. Mr. President, I thank the leader again for his leadership. He has agreement from our side, and we look forward to the successful conclusion of this important legislation.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the House-passed highway bill, H.R. 3550; provided further that all after the enacting clause be stricken and the text of S. 1072, as passed, with the addition of the amendment which is at the desk, be inserted in lieu thereof; the bill then be read a third time and passed; further, the Senate then insist on its amendment, request a conference with the House, and the Chair then be authorized to appoint conferees on the part of the Senate with a ratio of 11 to 10.

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

The amendment (No. 3219) was agreed to, as follows:

AMENDMENT NO. 3219

On page 40, line 9, strike ''$50,000,000'' and insert ''$60,000,000''.

On page 83, line 10, strike ''$50,000,000'' and insert ''$60,000,000''.

On page 164, between lines 20 and 21, insert the following:

''(3) MITIGATION IN CLOSED BASINS.—

''(A) IN GENERAL.—A State may use amounts deposited in the State fund for projects to protect existing roadways from anticipated flooding of a closed basin lake, including—

''(i) construction—

''(I) necessary for the continuation of roadway services and the impoundment of water, as the State determines to be appropriate; or

''(II) for a grade raise to permanently restore a roadway the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway in a closed lake basin;

''(ii) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

''(iii) monitoring and evaluations relating to proposed construction.

''(B) REIMBURSEMENT.—The Secretary may permit a State that expends funds under subparagraph (A) to be reimbursed for the expenditures through the use of amounts made available under section 125(c)(1).

On page 407, strike lines 3 through 8 and insert the following:

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking

The bill (H.R. 3550), as amended, was read the third time and passed.

THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 439 through 454, en bloc.

The PRESIDING OFFICER. Is there objection to consideration of the bills en bloc?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendments to S. 1848 and H.R. 417, which are at the desk, be agreed to; all committee amendments, where applicable,

be agreed to; the bills, as amended, if amended, be read the third time and passed; the motions to reconsider be laid upon the table en bloc; the title amendment to S. 1167 be withdrawn; and that any statements relating to the bills be printed in the RECORD.

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

ALBUQUERQUE BIOLOGICAL PARK TITLE CLARIFICATION ACT

The Senate proceeded to consider the bill (S. 213) to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Albuquerque Biological Park Title Clarification Act''.

[SEC. 2. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds that:

[(1) In 1997, the City of Albuquerque, New Mexico paid $3,875,000 to the Middle Rio Grande Conservancy District to acquire two parcels of land known as Tingley Beach and San Gabriel Park.

[(2) The City intends to develop and improve Tingley Beach and San Gabriel Park as part of its Albuquerque Biological Park Project.

[(3) In 2000, the United States claimed title to Tingley Beach and San Gabriel Park by asserting that these properties were transferred to the United States in the 1950's as part of the establishment of the Middle Rio Grande Project.

[(4) The City's ability to continue developing the Albuquerque Biological Park Project has been hindered by the United States claim of title to these properties.

[(5) The United States claim of ownership over the Middle Rio Grande Project properties is disputed by the City and MRGCD in Rio Grande Silvery Minnow v. John W. Keys, III, No. CV 99–1320 JP/RLP–ACE (D. N.M. filed Nov. 15, 1999).

[(6) Tingley Beach and San Gabriel Park are surplus to the needs of the Bureau of Reclamation and the United States in administering the Middle Rio Grande Project.

[(b) PURPOSE.—The purpose of this Act is to direct]

SEC. 2. PURPOSE.

The purpose of this Act is to direct the Secretary of the Interior to issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach or San Gabriel Park to the City, thereby removing the cloud on the City's title to these lands.

SEC. 3. DEFINITIONS.

In this Act:

(1) CITY.—The term ''City'' means the City of Albuquerque, New Mexico.

(2) MIDDLE RIO GRANDE CONSERVANCY DISTRICT.—The terms ''Middle Rio Grande Conservancy District'' and ''MRGCD'' mean a political subdivision of the State of New Mexico, created in 1925 to provide and maintain flood protection and drainage, and maintenance of ditches, canals, and distribution systems for irrigation and water delivery and operations in the Middle Rio Grande Valley.

(3) MIDDLE RIO GRANDE PROJECT.—The term ''Middle Rio Grande Project'' means the works associated with water deliveries and operations in the Rio Grande basin as authorized by the Flood Control Act of 1948 (Public Law 80–858; 62 Stat. 1175) and the Flood Control Act of 1950 (Public Law 81–516; 64 Stat. 170).

(4) SAN GABRIEL PARK.—The term ''San Gabriel Park'' means the tract of land containing 40.2236 acres, more or less, situated within Section 12 and Section 13, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(5) TINGLEY BEACH.—The term ''Tingley Beach'' means the tract of land containing 25.2005 acres, more or less, situated within Section 13 and Section 24, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

SEC. 4. CLARIFICATION OF PROPERTY INTEREST.

(a) REQUIRED ACTION.—The Secretary of the Interior shall issue a quitclaim deed conveying any right, title, and interest the United States may have in and to Tingley Beach and San Gabriel Park to the City.

(b) TIMING.—The Secretary shall carry out the action in subsection (a) as soon as practicable after the date of enactment of this title and in accordance with all applicable law.

(c) NO ADDITIONAL PAYMENT.—The City shall not be required to pay any additional costs to the United States for the value of San Gabriel Park and Tingley Beach.

SEC. 5. OTHER RIGHTS, TITLE, AND INTERESTS UNAFFECTED.

(a) IN GENERAL.—Except as expressly provided in section 4, nothing in this Act shall be construed to affect any right, title, or interest in and to any land associated with the Middle Rio Grande Project.

(b) ONGOING LITIGATION.—Nothing contained in this Act shall be construed or utilized to affect or otherwise interfere with any position set forth by any party in the lawsuit pending before the United States District Court for the District of New Mexico, No. CV 99–1320 JP/RLP–ACE, entitled Rio Grande Silvery Minnow v. John W. Keys, III, concerning the right, title, or interest in and to any property associated with the Middle Rio Grande Project.

The committee amendment was agreed to.

The bill (S. 213), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

FORT DONELSON NATIONAL BATTTLEFIELD EXPANSION ACT OF 2003

The Senate proceeded to consider the bill (S. 524) to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Fort Donelson National Battlefield Expansion Act of 2003''.

[SEC. 2. FORT DONELSON NATIONAL BATTLEFIELD.

[(a) DESIGNATION; PURPOSE.—There exists as a unit of the National Park System the Fort Donelson National Battlefield to commemorate—

[(1) the Battle of Fort Donelson in February 1862; and

[(2) the campaign conducted by General Ulysses S. Grant and Admiral Andrew H. Foote that resulted in the capture of Fort Donelson by Union forces.

[(b) BOUNDARIES.—The Fort Donelson National Battlefield shall consist of the site of Fort Donelson and associated land that has been acquired by the Secretary of the Interior for administration by the National Park Service, including Fort Donelson National Cemetery, in Stewart County, Tennessee and the site of Fort Heiman and associated land in Calloway County, Kentucky, as generally depicted on the map entitled ''_____'' numbered _____, and dated ____. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

[(c) EXPANSION OF BOUNDARIES.—The Fort Donelson National Battlefield shall also include any land acquired pursuant to section 3.

[SEC. 3 LAND ACQUISITION RELATED TO FORT DONELSON NATIONAL BATTLEFIELD.

[(a) ACQUISITION AUTHORITY.—Subject to subsections (b) and (c), the Secretary of the Interior may acquire land, interests in land, and improvements thereon for inclusion in the Fort Donelson National Battlefield. Such land, interests in land, and improvements may be acquired by the Secretary only by purchase from willing sellers with appropriated or donated funds, by donation, or by exchange with willing owners.

[(b) LAND ELIGIBLE FOR ACQUISITION.—The Secretary of the Interior may acquire land, interests in land, and improvements thereon under subsection (a)—

[(1) within the boundaries of the Fort Donelson National Battlefield described in section 2(b); and

[(2) outside such boundaries if the land has been identified by the American Battlefield Protection Program as part of the battlefield associated with Fort Donelson or if the Secretary otherwise determines that acquisition under subsection (a) will protect critical resources associated with the Battle of Fort Donelson in 1862 and the Union campaign that resulted in the capture of Fort Donelson.

[(c) BOUNDARY REVISION.—Upon acquisition of land or interests in land described in subsection (b)(2), the Secretary of the Interior shall revise the boundaries of the Fort Donelson National Battlefield to include the acquired property.

[(d) LIMITATION ON TOTAL ACREAGE OF PARK.—The total area encompassed by the Fort Donelson National Battlefield may not exceed 2,000 acres.

[SEC. 4. ADMINISTRATION OF FORT DONELSON NATIONAL BATTLEFIELD.

[The Secretary of the Interior shall administer the Fort Donelson National Battlefield in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (commonly known as the Historic Sites, Buildings, and Antiquities Act; 16 U.S.C. 461 et seq.).

[SEC. 5. RELATION TO LAND BETWEEN THE LAKES NATIONAL RECREATION AREA.

[The Secretary of Agriculture and the Secretary of the Interior shall enter into a memorandum of understanding to facilitate cooperatively protecting and interpreting the remaining vestige of Fort Henry and other remaining Civil War resources in the Land Between the Lakes National Recreation Area affiliated with the Fort Donelson campaign.

[SEC. 6. REPEAL OF OBSOLETE PROVISIONS AND CONFORMING AMENDMENTS.

[(a) REPEALS.—

[(1) 1928 LAW.—The first section and sections 2 through 7 of the Act of March 26, 1928 (16 U.S.C. 428a–428f), are repealed.

[(2) 1937 LAW.—Section 3 of the Act of August 30, 1937 (16 U.S.C. 428d–3), is repealed.

[(3) 1960 LAW.—Sections 4 and 5 of Public Law 86–738 (16 U.S.C. 428n, 428o) are repealed.

[(b) CONFORMING AMENDMENTS.—

[(1) 1928 LAW.—The Act of March 26, 1928, is amended—

[(A) in section 8 (16 U.S.C. 428g), by striking ''Secretary of War'' and inserting ''Secretary of the Interior'';

[(B) in section 9 (16 U.S.C. 428h)—

[(i) by striking ''Fort Donelson National Park'' and inserting ''Fort Donelson National Battlefield''; and

[(ii) by striking ''Secretary of War'' and inserting ''Secretary of the Interior''; and

[(C) in section 10 (16 U.S.C. 428i), by striking ''Secretary of War'' and inserting ''Secretary of the Interior''.

[(2) 1937 LAW.—The Act of August 30, 1937, is amended—

[(A) in the first section (16 U.S.C. 428d–1)—

[(i) by striking ''Fort Donelson National Military Park'' and inserting ''Fort Donelson National Battlefield''; and

[(ii) by striking ''War Department'' and inserting ''Department of the Army''; and

[(B) in section 2 (16 U.S.C. 428d–2)—

[(i) by striking ''Fort Donelson National Military Park'' and inserting ''Fort Donelson National Battlefield'';

[(ii) by striking ''said national military park'' and inserting ''Fort Donelson National Battlefield''; and

[(iii) by striking the last sentence.

[(3) 1960 LAW.—The first section of Public Law 86–738 (16 U.S.C. 428k) is amended—

[(A) by striking ''Fort Donelson National Military Park'' and inserting ''Fort Donelson National Battlefield''; and

[(B) by striking '', but the total area commemorating the battle of Fort Donelson shall not exceed 600 acres''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fort Donelson National Battlefield Expansion Act of 2004''.

SEC. 2. FORT DONELSON NATIONAL BATTLEFIELD.

(a) DESIGNATION; PURPOSE.—There exists as a unit of the National Park System the Fort Donelson National Battlefield to commemorate—

(1) the Battle of Fort Donelson in February 1862; and

(2) the campaign conducted by General Ulysses S. Grant and Admiral Andrew H. Foote that resulted in the capture of Fort Donelson by Union forces.

(b) BOUNDARIES.—The boundary of the Fort Donelson National Battlefield is revised to include the site of Fort Donelson and associated land that has been acquired by the Secretary of the Interior for administration by the National Park Service, including Fort Donelson National Cemetery, in Stewart County, Tennessee and the site of Fort Heiman and associated land in Calloway County, Kentucky, as generally depicted on the map entitled ''Fort Donelson National Battlefield Boundary Adjustment'' numbered 328/80024, and dated September 2003. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) EXPANSION OF BOUNDARIES.—The Fort Donelson National Battlefield shall also include any land acquired pursuant to section 3.

SEC. 3. LAND ACQUISITION RELATED TO FORT DONELSON NATIONAL BATTLEFIELD.

(a) ACQUISITION AUTHORITY.—Subject to subsections (b) and (c), the Secretary of the Interior may acquire land, interests in land, and improvements thereon for inclusion in the Fort Donelson National Battlefield. Such land, interests in land, and improvements may be acquired by the Secretary only by purchase from willing sellers with appropriated or donated funds, by donation, or by exchange with willing owners.

(b) LAND ELIGIBLE FOR ACQUISITION.—The Secretary of the Interior may acquire land, interests in land, and improvements thereon under subsection (a)—

(1) within the boundaries of the Fort Donelson National Battlefield described in section 2(b); and

(2) outside such boundaries if the land has been identified by the American Battlefield Protection Program as part of the battlefield associated with Fort Donelson or if the Secretary otherwise determines that acquisition under subsection (a) will protect critical resources associated with the Battle of Fort Donelson in 1862 and the Union campaign that resulted in the capture of Fort Donelson.

(c) BOUNDARY REVISION.—Upon acquisition of land or interests in land described in subsection (b)(2), the Secretary of the Interior shall revise the boundaries of the Fort Donelson National Battlefield to include the acquired property.

(d) LIMITATION ON TOTAL ACREAGE OF PARK.—The total area encompassed by the Fort Donelson National Battlefield may not exceed 2,000 acres.

SEC. 4. ADMINISTRATION OF FORT DONELSON NATIONAL BATTLEFIELD.

The Secretary of the Interior shall administer the Fort Donelson National Battlefield in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (commonly known as the Historic Sites, Buildings, and Antiquities Act; 16 U.S.C. 461 et seq.).

SEC. 5. RELATION TO LAND BETWEEN THE LAKES NATIONAL RECREATION AREA.

The Secretary of Agriculture and the Secretary of the Interior shall enter into a memorandum of understanding to facilitate cooperatively protecting and interpreting the remaining vestige of Fort Henry and other remaining Civil War resources in the Land Between the Lakes National Recreation Area affiliated with the Fort Donelson campaign.

SEC. 6. CONFORMING AMENDMENT.

The first section of Public Law 86–738 (16 U.S.C. 428k) is amended by striking ''Tennessee'' and all that follows through the period at the end and inserting ''Tennessee.''.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 524), as amended, was passed.

CITY OF CHEYENNE, WYOMING KENDRICK WATER STORAGE PROJECT

The Senate proceeded to consider the bill (S. 943) to authorize the Secretary of the Interior to enter into one or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project, Wyoming, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. WATER STORAGE CONTRACTS.

[(a) DEFINITIONS.—In this Act:

[(1) CITY.—The term ''city'' means—

[(A) the city of Cheyenne, Wyoming;

[(B) the Board of Public Utilities of the city; and

[(C) any agency, public utility, or enterprise of the city.

[(2) KENDRICK PROJECT.—

[(A) IN GENERAL.—The term ''Kendrick Project'' means the Bureau of Reclamation project on the North Platte River in the State constructed for irrigation and the generation of electric power.

[(B) INCLUSIONS.—The term ''Kendrick Project'' includes—

[(i) the Seminoe dam, reservoir, and powerplant; and

[(ii) the Alcova dam and powerplant.

[(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

[(4) STATE.—The term ''State'' means the State of Wyoming.

[(b) CONTRACTS.—

[(1) IN GENERAL.—The Secretary may enter into 1 or more contracts with the city for the annual storage in Seminoe dam and reservoir of the Kendrick Project of water for municipal and industrial uses.

[(2) TERM; RENEWAL.—A contract under paragraph (1)—

[(A) shall have a term of not more than 40 years; and

[(B) may be renewed, subject to any terms agreed to by the Secretary and the city, for additional 40-year terms.

[(3) DISPOSITION OF PROCEEDS.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), any proceeds received under a contract under paragraph (1) shall—

[(i) be deposited in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391); and

[(ii) be available for the Kendrick Project.

[(B) OPERATION AND MAINTENANCE.—Any amounts collected as payments for the operation and maintenance charges of the Kendrick Project under the contract under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project.

[(4) EFFECT.—A contract under paragraph (1) shall not affect Kendrick Project contractors or any other existing reclamation contractors on the North Platte River system.]

SECTION 1. WATER STORAGE CONTRACTS.

(a) DEFINITIONS.—In this Act:

(1) CITY.—The term ''city'' means—

(A) the city of Cheyenne, Wyoming;

(B) the Board of Public Utilities of the city; and

(C) any agency, public utility, or enterprise of the city.

(2) KENDRICK PROJECT.—The term ''Kendrick Project'' means the Bureau of Reclamation project on the North Platte River that was authorized by a finding of feasibility approved by the President on August 30, 1935, and constructed for irrigation and electric power generation, the major features of which include—

(A) Seminoe Dam, Reservoir, and Powerplant; and

(B) Alcova Dam and Powerplant.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) STATE.—The term ''State'' means the State of Wyoming.

(b) CONTRACTS.—

(1) IN GENERAL.—The Secretary may enter into 1 or more contracts with the city for annual storage of the city's water for municipal and industrial use in Seminoe Dam and Reservoir of the Kendrick Project.

(2) CONDITIONS.—

(A) TERM; RENEWAL.—A contract under paragraph (1) shall—

(i) have a term of not more than 40 years; and

(ii) may be renewed on terms agreeable to the Secretary and the city, for successive terms of not more than 40 years per term.

(B) REVENUES.—Notwithstanding the Act of May 9, 1938 (52 Stat. 322, chapter 187; 43 U.S.C. 392a)—

(i) any operation and maintenance charges received under a contract executed under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project; and

(ii) any other revenues received under a contract executed under paragraph (1) shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

(C) EFFECT ON EXISTING CONTRACTORS.—A contract under paragraph (1) shall not adversely affect the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.

Amend the title so as to read: ''A bill to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.''.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 943), as amended, was passed.

HAWAII WATER RESOURCES ACT OF 2004

The Senate proceeded to consider the bill (S. 960) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hawaii Water Resources Act of [2003] *2004*''.

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

''SEC. [1636] *1637*. HAWAII RECLAMATION PROJECTS.

''(a) AUTHORIZATION.—The Secretary may—

''(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

''(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

''(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

''(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) [is amended by inserting after the item relating to section 1634 the following:

[''Sec. 1636. Hawaii reclamation projects.''.

[SEC. 3. HAWAII WATER RESOURCES STUDY.

[The Hawaii Water Resources Act of 2000 is amended—

[(1) in section 103(e) (114 Stat. 2819), by striking ''$300,000'' and inserting ''$2,000,000''; and

[(2) in section 104(b) (114 Stat. 2819), by striking ''cost-effective,'' and all that follows through the period at the end and inserting ''cost-effective.''.]

is amended by inserting after the item relating to section 1636 the following:

''Sec. 1637. Hawaii reclamation projects.''.

The committee amendments were agreed to.

The bill (S. 960), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

RECREATIONAL FEE AUTHORITY ACT OF 2004

The Senate proceeded to consider the bill (S. 1107) to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike in parts shown in black brackets and insert the parts shown in italic.]

S. 1107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Recreational Fee Authority Act of [2003] *2004*''.

SEC. 2. RECREATION FEE AUTHORITY.

(a) IN GENERAL.—Beginning [in Fiscal Year 2004 and thereafter,] *on January 1, 2006*, the Secretary of the Interior (''Secretary'') may establish, modify, charge, and collect fees for admission to a unit of the National Park System and the use of National Park Service (''Service'') administered areas, lands, sites, facilities, and services (including reservations) by individuals and/or groups. Fees shall be based on an analysis by the Secretary of—

(1) the benefits and services provided to the visitor;

(2) the cumulative effect of fees;

(3) the comparable fees charged elsewhere and by other public agencies and by nearby private sector operators;

(4) the direct and indirect cost and benefit to the government;

(5) public policy or management objectives served;

(6) economic and administrative feasibility of fee collection; and

(7) other factors or criteria determined by the Secretary.

(b) NUMBER OF FEES.—The Secretary shall establish the minimum number of fees and shall avoid the collection of multiple or layered fees for a wide variety of uses, activities or programs.

(c) ANALYSIS.—The results of the analysis together with the Secretary's determination of appropriate fee levels shall be transmitted to the Congress at least three months prior to publication of such fees in the Federal Register. New fees and any increases or decreases in established fees shall be published in the Federal Register and no new fee or change in the amount of fees shall take place until at least 12 months after the date the notice is published in the Federal Register.

(d) ADDITIONAL AUTHORITIES.—Beginning on [October 1, 2003] *January 1, 2006*, the Secretary may enter into agreements, including contracts to provide reasonable commissions or reimbursements with any public or private entity for visitor reservation services, fee collection and/or processing services.

(e) ADMINISTRATION.—The Secretary may provide discounted or free admission days or use, may modify the National Park Passport, established pursuant to Public Law 105–391, and shall provide information to the public about the various fee programs and the costs and benefits of each program.

(f) STATE AGENCY ADMISSION AND SPECIAL USE PASSES.—Effective [October 1, 2003] *January 1, 2006*, and notwithstanding the Federal Grants Cooperative Agreements Act, the Secretary may enter into revenue sharing agreements with State agencies to accept their annual passes and convey the same privileges, terms and conditions as offered under the auspices of the National Park Passport, to State agency annual passes and shall only be accepted for all of the units of the National Park System within the boundaries of the State in which the specific revenue sharing agreement is entered into except where the Secretary has established a fee that includes a unit or units located in more than one State.

SEC. 3. DISTRIBUTION OF RECEIPTS.

Without further appropriation, all receipts collected pursuant to the Act or from sales of the National Park Passport shall be retained by the Secretary and may be expended as follows:

(1) 80 percent of amounts collected at a specific area, site, or project as determined by the Secretary, shall remain available for use at the specific area, site or project, except for those units of the National Park

System that participate in an active revenue sharing agreement with a State under Section 2(f) of this Act, not less than 90 percent of amounts collected at a specific area, site, or project shall remain available for use.

(2) The balance of the amounts collected shall remain available for use by the Service on a Service-wide basis as determined by the Secretary.

(3) Monies generated as a result of revenue sharing agreements established pursuant to Section 2(f) may provide for a fee-sharing arrangement. The Service shares of fees shall be distributed equally to all units of the National Park System in the specific States that are parties to the revenue sharing agreement.

(4) Not less than 50 percent of the amounts collected from the sale of the National Park Passport shall remain available for use at the specific area, site, or project at which the fees were collected and the balance of the receipts shall be distributed in accordance with paragraph 2 of this Section.

SEC. 4. EXPENDITURES.

(a) USE OF FEES AT SPECIFIC AREA, SITE, OR PROJECT.—Amounts available for expenditure at a specific area, site or project shall be accounted for separately and may be used for—

(1) repair, maintenance, facility enhancement, media services and infrastructure including projects and expenses relating to visitor enjoyment, visitor access, environmental compliance, and health and safety;

(2) interpretation, visitor information, visitor service, visitor needs assessments, monitoring, and signs;

(3) habitat enhancement, resource assessment, preservation, protection, and restoration related to recreation use; and

(4) law enforcement relating to public use and recreation.

(b) The Secretary may use not more than fifteen percent of total revenues to administer the recreation fee program including direct operating or capital costs, cost of fee collection, notification of fee requirements, direct infrastructure, fee program management costs, bonding of volunteers, start-up costs, and analysis and reporting on program accomplishments and effects.

SEC. 5. REPORTS.

On January 1, [2006,] *2009*, and every three years thereafter the Secretary shall submit to the Congress a report detailing the status of the Recreation Fee Program conducted in units of the National Park System including an evaluation of the Recreation Fee Program conducted at each unit of the National Park System; a description of projects that were funded, work accomplished, and future projects and programs for funding with fees, and any recommendations for changes in the overall fee system.

The committee amendments were agreed to.

The bill (S. 1107), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.

BOUNDARY CONFLICTS IN BARRY AND STONE COUNTIES, MISSOURI

The Senate proceeded to consider the bill (S. 1167) to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds and declares that—

[(1) certain landowners in Barry and Stone Counties, Missouri, have innocently and in good faith relied on subsequent land surveys, which they believed to have been correct, and have occupied, improved, or claimed portions of adjoining Federal lands based on such survey information; and

[(2) the appropriate Federal agencies should undertake actions to reestablish the corners of the Public Land Survey system, and to rectify boundary conflicts and land-ownership claims against Federal lands resulting from subsequent Federal and private land surveys, and do so in a manner which imposes the least cost and inconvenience to affected private landowners.

[(b) PURPOSES.—Within Barry and Stone Counties, Missouri, the purposes of this Act are—

[(1) to resolve any boundary disputes arising from these subsequent land surveys; and

[(2) to minimize costs and inconvenience to the affected private property owners in Barry and Stone County, Missouri.

[SEC. 2. DEFINITIONS.

[For the purposes of this Act, the term—

[(1) ''appropriate Secretary'' means either the Secretary of the Army or the Secretary of Agriculture;

[(2) ''boundary conflict'' means the situation where the private claim of ownership for non-Federal lands, based on subsequent land surveys, overlaps or conflicts with Federal ownership;

[(3) ''Bureau of Land Management'' means the agency of that name within the United States Department of the Interior, the successor agency to the United States General Land Office.

[(4) ''Corps of Engineers'' means the U.S. Army Corps of Engineers;

[(5) ''Federal land surveys'' means any land survey made by an agency or department of the Federal Government with Federal employees, or by Federal contract with State licensed private land surveyors or corporations and businesses licensed to provide professional land surveying services in the State of Missouri;

[(6) ''Forest Service'' means the Forest Service, an agency of the U.S. Department of Agriculture;

[(7) ''National Forest System lands'' means Federal lands within the National Forest System as such System is defined by section 10(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1609(a));

[(8) ''original land surveys'' means the land surveys made by the General Land Office as part of the United States Public Land Survey System in the State of Missouri, and upon which the Government land patents were issued conveying the land from the Federal Government into private ownership;

[(9) ''United States Public Land Survey System'' means the rectangular system of original Government lands survey made by the United States General Land Office and its successor, the Bureau of Land Management, under Federal laws providing for the survey of the public lands upon which the original land patents were issued;

[(10) ''qualifying claimant'' means a private owner of real property in Barry and Stone Counties, Missouri, who has boundary conflict as a result of good faith and innocent reliance on subsequent land surveys, and as a result of such reliance, has occupied, improved, or made ownership claims to Federal lands, and who files a claim for relief under this Act within the time period prescribed in section 4(b); and

[(11) ''subsequent land surveys'' mean any land surveys made after the original land surveys.

[SEC. 3. RESOLUTION OF BOUNDARY CONFLICTS.

[(a) AUTHORITIES.—Notwithstanding any other provision of law, including the Federal Property Administration Services Act of 1949, and without requirements for further administrative or environmental analyses or examination, the appropriate Secretary is authorized discretion to take any of the following actions, or combinations of actions, in order to resolve boundary conflicts with qualifying claimants on lands under their respective administrative jurisdiction—

[(1) to convey and quitclaim all right, title, and interest of the United States in land for which there is a boundary conflict; or

[(2) to confirm Federal title to and retain in Federal management any land for which there is a boundary conflict where there are Federal interests which may include improvements, authorized uses, easements, hazardous materials, historical and cultural resources; and

[(3) to compensate the qualifying claimant for the value of the overlapping property for which title is confirmed and retained in Federal management pursuant to paragraph (2) of this subsection.

[(b) CONSIDERATION AND COSTS.—The Appropriate Secretary shall—

[(1) waive consideration for the value of the Federal land conveyed and quitclaimed pursuant to subsection (a)(1) upon a finding that the boundary conflict was the result of the innocent detrimental reliance by the qualifying claimant on a subsequent land survey;

[(2) pay administrative, personnel and any other costs associated with the implementation of this Act, including the costs of survey, marking and monumenting property lines and corners; and

[(3) reimburse the qualifying claimant for reasonable out-of-pocket survey costs necessary to establish a claim under this Act.

[(c) VALUATION.—Compensation paid to qualifying claimants for land retained in Federal ownership pursuant to subsection (a)(2) shall be valued on the basis of the contributory value of the tract of land to the larger adjoining private parcel and not on the basis of the land being a separate tract, and shall not include the value of Federal improvements to the land.

[(d) PREEXISTING CONDITION.—

[(1) The United States shall not compensate a qualifying claimant or any other person for any preexisting condition or reduction in value of any land which is the subject of a boundary conflict because of any existing or outstanding permits, use authorizations, reservations, timber removal, or other land use or condition.

[(2) The requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9620(h)) shall not apply to conveyances or transfers of jurisdiction under this Act, but the United States shall continue to be liable for the cleanup costs of any hazardous substances on the lands so conveyed or transferred if the contamination by hazardous substances is caused by actions of the United States or its agents.

[(e) RESERVATIONS, VALID EXISTING RIGHTS AND USES.—

[(1) Any conveyance pursuant to subsection (a)(1) shall be subject to—

[(A) reservations for existing public uses for roads, utilities, and facilities; and

[(B) permits, rights-of-way, contracts and any other authorization to use the property; and

[(2) For any land subject to a special use authorization or permit for access or utilities, the appropriate Secretary may, at the request of the holder, convert such authorization to a permanent easement prior to any conveyance pursuant to subsection (a)(1); and

[(3) The appropriate Secretary may reserve rights for future public uses in conveyances made pursuant to subsection (a)(1) of this section if the qualifying claimant is paid for the reservation in cash or in land of equal value.

[(f) RESPONSIBILITIES OF CLAIMANTS.—The qualifying claimant shall have the responsibility for establishing that they qualify for the remedies allowed under this Act.

[SEC. 4. ADMINISTRATIVE PROCEDURE.

[(a) Qualifying claimants shall notify the appropriate Secretary in writing of their claims of a boundary conflict with adjoining Federal land. Such notification shall be accompanied by the following information provided by the qualifying claimant which, except as provided in section 3(b)(3), shall be without cost to the United States—

[(1) a land survey plat and legal description of the affected Federal lands claimed which are based upon a correctly made land survey completed and certified by a Missouri State licensed Professional Land Surveyor, and done in conformity with the United States Public Land Survey System and in compliance with the applicable State and Federal land surveying statutes and regulations; and

[(2) information relating to the claim of ownership of such Federal lands, including supporting documentation showing the landowner relied on a subsequent land survey due to actions by the Federal Government in making or approving surveys for the Table Rock Reservoir; and

[(b) Any qualifying claimant must file for resolution of a boundary conflict within 15 years of the date of enactment of this Act.

[(c) Except for such additional authorities provided in this Act, nothing herein shall affect the Quiet Title Act (28 U.S.C. 2409a) or other applicable law, or affect the exchange and disposal authorities of the Secretary of Agriculture including, but not limited to, the Small Tracts Act (16 U.S.C. 521c), or the exchange and disposal authorities of the Secretary of the Army.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as necessary to carry out this Act.]

SECTION 1. RESOLUTION OF BOUNDARY CONFLICTS, VICINITY OF MARK TWAIN NATIONAL FOREST, BARRY AND STONE COUNTIES, MISSOURI.

(a) DEFINITIONS.—In this section:

(1) The term ''appropriate Secretary'' means the Secretary of the Army or the Secretary of Agriculture.

(2) The term ''boundary conflict'' means the situation in which the private claim of ownership to certain lands, based on subsequent Federal land surveys, overlaps or conflicts with Federal ownership of the same lands.

(3) The term ''Federal land surveys'' means any land survey made by any agency or department of the Federal Government using Federal employees, or by Federal contract with State-licensed private land surveyors or corporations and businesses licensed to provide professional land surveying services in the State of Missouri for Table Rock Reservoir.

(4) The term ''original land surveys'' means the land surveys made by the United States General Land Office as part of the Public Land Survey System in the State of Missouri, and upon which Government land patents were issued conveying the land.

(5) The term ''Public Land Survey System'' means the rectangular system of original Government land surveys made by the United States General Land Office and its successor, the Bureau of Land Management, under Federal laws providing for the survey of the public lands upon which the original land patents were issued.

(6) The term ''qualifying claimant'' means a private owner of real property in Barry or Stone County, Missouri, who has a boundary conflict as a result of good faith and innocent reliance on subsequent Federal land surveys, and as a result of such reliance, has occupied or improved Federal lands administered by the appropriate Secretary.

(7) The term ''subsequent Federal land surveys'' means any Federal land surveys made after the original land surveys that are inconsistent with the Public Land Survey System.

(b) RESOLUTION OF BOUNDARY CONFLICTS.—The Secretary of the Army and the Secretary of Agriculture shall cooperatively undertake actions to rectify boundary conflicts and landownership claims against Federal lands resulting from subsequent Federal land surveys and correctly reestablish the corners of the Public Land Survey System in Barry and Stone Counties, Missouri, and shall attempt to do so in a manner which imposes the least cost and inconvenience to affected private landowners.

(c) NOTICE OF BOUNDARY CONFLICT.—

(1) SUBMISSION AND CONTENTS.—A qualifying claimant shall notify the appropriate Secretary in writing of a claim that a boundary conflict exists with Federal land administered by the appropriate Secretary. The notice shall be accompanied by the following information, which, except as provided in subsection (e)(2)(B), shall be provided without cost to the United States:

(A) A land survey plat and legal description of the affected Federal lands, which are based upon a land survey completed and certified by a Missouri State-licensed professional land surveyor and done in conformity with the Public Land Survey System and in compliance with the applicable State and Federal land surveying laws.

(B) Information relating to the claim of ownership of the Federal lands, including supporting documentation showing that the landowner relied on a subsequent Federal land survey due to actions by the Federal Government in making or approving surveys for the Table Rock Reservoir.

(2) DEADLINE FOR SUBMISSION.—To obtain relief under this section, a qualifying claimant shall submit the notice and information required by paragraph (1) within 15 years after the date of the enactment of this Act.

(d) RESOLUTION AUTHORITIES.—In addition to using existing authorities, the appropriate Secretary is authorized to take any of the following actions in order to resolve boundary conflicts with qualifying claimants involving lands under the administrative jurisdiction of the appropriate Secretary:

(1) Convey by quitclaim deed right, title, and interest in land of the United States subject to a boundary conflict consistent with the rights, title, and interest associated with the privately-owned land from which a qualifying claimant has based a claim.

(2) Confirm Federal title to, and retain in Federal management, any land subject to a boundary conflict, if the appropriate Secretary determines that there are Federal interests, including improvements, authorized uses, easements, hazardous materials, or historical and cultural resources, on the land that necessitates retention of the land or interests in land.

(3) Compensate the qualifying claimant for the value of the overlapping property for which title is confirmed and retained in Federal management pursuant to paragraph (2).

(e) CONSIDERATION AND COST.—

(1) CONVEYANCE WITHOUT CONSIDERATION.—The conveyance of land under subsection (d)(1) shall be made without consideration.

(2) COSTS.—The appropriate Secretary shall—

(A) pay administrative, personnel, and any other costs associated with the implementation of this section by his or her Department, including the costs of survey, marking, and monumenting property lines and corners; and

(B) reimburse the qualifying claimant for reasonable out-of-pocket survey costs necessary to establish a claim under this section.

(3) VALUATION.—Compensation paid to a qualifying claimant pursuant to subsection (d)(3) for land retained in Federal ownership pursuant to subsection (d)(2) shall be valued on the basis of the contributory value of the tract of land to the larger adjoining private parcel and not on the basis of the land being a separate tract. The appropriate Secretary shall not consider the value of any Federal improvements to the land. The appropriate Secretary shall be responsible for compensation provided as a result of subsequent Federal land surveys conducted or commissioned by the appropriate Secretary's Department.

(f) PREEXISTING CONDITIONS; RESERVATIONS; EXISTING RIGHTS AND USES.—

(1) PREEXISTING CONDITIONS.—The appropriate Secretary shall not compensate a qualifying claimant or any other person for any preexisting condition or reduction in value of any land subject to a boundary conflict because of any existing or outstanding permits, use authorizations, reservations, timber removal, or other land use or condition.

(2) EXISTING RESERVATIONS AND RIGHTS AND USES.—Any conveyance pursuant to subsection (d)(1) shall be subject to—

(A) reservations for existing public uses for roads, utilities, and facilities; and

(B) permits, rights-of-way, contracts and any other authorization to use the property.

(3) TREATMENT OF LAND SUBJECT TO SPECIAL USE AUTHORIZATION OR PERMIT.—For any land subject to a special use authorization or permit for access or utilities, the appropriate Secretary may convert, at the request of the holder, such authorization to a permanent easement prior to any conveyance pursuant to subsection (d)(1).

(4) FUTURE RESERVATIONS.—The appropriate Secretary may reserve rights for future public uses in a conveyance made pursuant to subsection (d)(1) if the qualifying claimant is compensated for the reservation in cash or in land of equal value.

(5) HAZARDOUS SUBSTANCES.—The requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9620(h)) shall not apply to conveyances or transfers of jurisdiction pursuant to subsection (d), but the United States shall continue to be liable for the cleanup costs of any hazardous substances on the lands so conveyed or transferred if the contamination by hazardous substances is caused by actions of the United States or its agents.

(g) RELATION TO OTHER CONVEYANCE AUTHORITY.—Nothing in this section affects the Quiet Title Act (28 U.S.C. 2409a) or other applicable law, or affects the exchange and disposal authorities of the Secretary of Agriculture, including the Small Tracts Act (16 U.S.C. 521c), or the exchange and disposal authorities of the Secretary of the Army.

(h) ADDITIONAL TERMS AND CONDITIONS.—The appropriate Secretary may require such additional terms and conditions in connection with a conveyance under subsection (d)(1) as the Secretary considers appropriate to protect the interests of the United States.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1167), as amended, was passed.

SALT CEDAR AND RUSSIAN OLIVE CONTROL DEMONSTRATION ACT

The Senate proceeded to consider the bill (S. 1516) to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Salt Cedar Control Demonstration Act''.

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) the western United States is currently experiencing its worst drought in modern history;

[(2) it is estimated that throughout the western United States salt cedar and Russian olive—

[(A) occupy between 1,000,000 and 1,500,000 acres of land; and

[(B) are non-beneficial users of 2,000,000 to 4,500,000 acre-feet of water per year;

[(3) the quantity of non-beneficial use of water by salt cedar and Russian olive is greater than the quantity that valuable native vegetation would use;

[(4) much of the salt cedar and Russian olive infestation is located on Bureau of Land Management land or other land of the Department of the Interior; and

[(5) as drought conditions and legal requirements relating to water supply accelerate water shortages, innovative approaches are needed to address the increasing demand for a diminishing water supply.

[SEC. 3. SALT CEDAR AND RUSSIAN OLIVE ASSESSMENT AND DEMONSTRATION PROGRAM.

[(a) ESTABLISHMENT.—In furtherance of the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4600), the Secretary of the Interior, acting through the Commissioner of Reclamation (referred to in this Act as the ''Secretary''), shall carry out a salt cedar and Russian olive assessment and demonstration program to—

[(1) assess the extent of the infestation of salt cedar and Russian olive in the western United States; and

[(2) develop strategic solutions for long-term management of salt cedar and Russian olive.

[(b) ASSESSMENT.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary shall complete an assessment of the extent of salt cedar and Russian olive infestation in the western United States. The assessment shall—

[(1) consider past and ongoing research on tested and innovative methods to control salt cedar and Russian olive;

[(2) consider the feasibility of reducing water consumption;

[(3) consider methods of and challenges associated with the restoration of infested land;

[(4) estimate the costs of destruction of salt cedar and Russian olive, biomass removal, and restoration and maintenance of the infested land; and

[(5) identify long-term management and funding strategies that could be implemented by Federal, State, and private land managers.

[(c) DEMONSTRATION PROJECTS.—The Secretary shall carry out not less than 5 projects to demonstrate and evaluate the most effective methods of controlling salt ceder and Russian olive. Projects carried out under this subsection shall—

[(1) monitor and document any water savings from the control of salt cedar and Russian olive;

[(2) identify the quantity of, and rates at which, any water savings under paragraph (1) return to surface water supplies;

[(3) assess the best approach to and tools for implementing available control methods;

[(4) assess all costs and benefits associated with control methods and the restoration and maintenance of land;

[(5) determine conditions under which removal of biomass is appropriate and the optimal methods for its disposal or use;

[(6) define appropriate final vegetative states and optimal revegetation methods; and

[(7) identify methods for preventing the regrowth and reintroduction of salt cedar and Russian olive.

[(d) CONTROL METHODS.—The demonstration projects carried out under subsection (c) may implement 1 or more control method per project, but to assess the full range of control mechanisms—

[(1) at least 1 project shall use airborne application of herbicides;

[(2) at least 1 project shall use mechanical removal; and

[(3) at least 1 project shall use biocontrol methods such as goats or insects.

[(e) IMPLEMENTATION.—A demonstration project shall be carried out during a time period and to a scale designed to meet the requirements of subsection (c).

[(f) COSTS.—

[(1) IN GENERAL.—Each demonstration project under subsection (c) shall be carried out at a cost of not more than $7,000,000, including costs of planning, design, implementation, maintenance, and monitoring.

[(2) COST-SHARING.—

[(A) FEDERAL SHARE.—The Federal share of the costs of a demonstration project shall not exceed 75 percent.

[(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the costs of a demonstration project may be provided in the form of in-kind contributions, including services provided by a State agency.

[(g) COOPERATION.—In carrying out the program, the Secretary shall—

[(1) use the expertise of Federal agencies, national laboratories, Indian tribes, institutions of higher education, State agencies, and soil and water conservation districts that are actively conducting research on or implementing salt cedar and Russian olive control activities; and

[(2) cooperate with other Federal agencies and affected States, local units of government, and Indian tribes.

[SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this Act—

[(1) $50,000,000 for fiscal year 2004; and

[(2) such sums as are necessary for each fiscal year thereafter.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Salt Cedar and Russian Olive Control Demonstration Act''.

SEC. 2. SALT CEDAR AND RUSSIAN OLIVE CONTROL DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this Act as the ''Secretary''), acting through the Commissioner of Reclamation and in cooperation with the Secretary of Agriculture and the Secretary of Defense, shall carry out a salt cedar (Tamarix spp) and Russian olive (Elaeagnus angustifolia) assessment and demonstration program—

(1) to assess the extent of the infestation by salt cedar and Russian olive trees in the western United States;

(2) to demonstrate strategic solutions for—

(A) the long-term management of salt cedar and Russian olive trees; and

(B) the reestablishment of native vegetation; and

(3) to assess economic means to dispose of biomass created as a result of removal of salt cedar and Russian olive trees.

(b) ASSESSMENT.—

(1) IN GENERAL.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary shall complete an assessment of the extent of salt cedar and Russian olive infestation on public and private land in the western United States.

(2) REQUIREMENTS.—In addition to describing the acreage of and severity of infestation by salt cedar and Russian olive trees in the western United States, the assessment shall—

(A) consider existing research on methods to control salt cedar and Russian olive trees;

(B) consider the feasibility of reducing water consumption by salt cedar and Russian olive trees;

(C) consider methods of and challenges associated with the revegetation or restoration of infested land; and

(D) estimate the costs of destruction of salt cedar and Russian olive trees, related biomass removal, and revegetation or restoration and maintenance of the infested land.

(c) LONG-TERM MANAGEMENT STRATEGIES.—

(1) IN GENERAL.—The Secretary shall identify and document long-term management and funding strategies that—

(A) could be implemented by Federal, State, and private land managers in addressing infestation by salt cedar and Russian olive trees; and

(B) should be tested as components of demonstration projects under subsection (d).

(2) GRANTS.—The Secretary shall provide grants to institutions of higher education to develop public policy expertise in, and assist in developing a long-term strategy to address, infestation by salt cedar and Russian olive trees.

(d) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Not later than 180 days after the date on which funds are made available to carry out this Act, the Secretary shall establish a program that selects and funds not less than 5 projects proposed by and implemented in collaboration with Federal agencies, units of State and local government, national laboratories, Indian tribes, institutions of higher education, individuals, organizations, or soil and water conservation districts to demonstrate and evaluate the most effective methods of controlling salt cedar and Russian olive trees.

(2) PROJECT REQUIREMENTS.—The demonstration projects under paragraph (1) shall—

(A) be carried out over a time period and to a scale designed to fully assess long-term management strategies;

(B) implement salt cedar or Russian olive tree control using 1 or more methods for each project in order to assess the full range of control methods, including—

(i) airborne application of herbicides;

(ii) mechanical removal; and

(iii) biocontrol methods, such as the use of goats or insects;

(C) individually or in conjunction with other demonstration projects, assess the effects of and

obstacles to combining multiple control methods and determine optimal combinations of control methods;

(D) assess soil conditions resulting from salt cedar and Russian olive tree infestation and means to revitalize soils;

(E) define and implement appropriate final vegetative states and optimal revegetation methods, with preference for self-maintaining vegetative states and native vegetation, and taking into consideration downstream impacts, wildfire potential, and water savings;

(F) identify methods for preventing the regrowth and reintroduction of salt cedar and Russian olive trees;

(G) monitor and document any water savings from the control of salt cedar and Russian olive trees, including impacts to both groundwater and surface water;

(H) assess wildfire activity and management strategies;

(I) assess changes in wildlife habitat;

(J) determine conditions under which removal of biomass is appropriate (including optimal methods for the disposal or use of biomass); and

(K) assess economic and other impacts associated with control methods and the restoration and maintenance of land.

(e) DISPOSITION OF BIOMASS.—

(1) IN GENERAL.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall complete an analysis of economic means to use or dispose of biomass created as a result of removal of salt cedar and Russian olive trees.

(2) REQUIREMENTS.—The analysis shall—

(A) determine conditions under which removal of biomass is economically viable;

(B) consider and build upon existing research by the Department of Agriculture and other agencies on beneficial uses of salt cedar and Russian olive tree fiber; and

(C) consider economic development opportunities, including manufacture of wood products using biomass resulting from demonstration projects under subsection (d) as a means of defraying costs of control.

(f) COSTS.—

(1) IN GENERAL.—With respect to projects and activities carried out under this Act—

(A) the assessment under subsection (b) shall be carried out at a cost of not more than $4,000,000;

(B) the identification and documentation of long-term management strategies under subsection (c) shall be carried out at a cost of not more than $2,000,000;

(C) each demonstration project under subsection (d) shall be carried out at a Federal cost of not more than $7,000,000 (including costs of planning, design, implementation, maintenance, and monitoring); and

(D) the analysis under subsection (e) shall be carried out at a cost of not more than $3,000,000.

(2) COST-SHARING.—

(A) IN GENERAL.—The assessment under subsection (b), the identification and documentation of long-term management strategies under subsection (c), a demonstration project or portion of a demonstration project under subsection (d) that is carried out on Federal land, and the analysis under subsection (e) shall be carried out at full Federal expense.

(B) DEMONSTRATION PROJECTS CARRIED OUT ON NON-FEDERAL LAND.—

(i) IN GENERAL.—The Federal share of the costs of any demonstration project funded under subsection (d) that is not carried out on Federal land shall not exceed—

(I) 75 percent for each of the first 5 years of the demonstration project; and

(II) for the purpose of long-term monitoring, 100 percent for each of such 5-year extensions as the Secretary may grant.

(ii) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the costs of a demonstration project that is not carried out on Federal land may be provided in the form of in-kind contributions, including services provided by a State agency or any other public or private partner.

(g) COOPERATION.—In carrying out the assessment under subsection (b), the demonstration projects under subsection (d), and the analysis under subsection (e), the Secretary shall cooperate with and use the expertise of Federal agencies and the other entities specified in subsection (d)(1) that are actively conducting research on or implementing salt cedar and Russian olive tree control activities.

(h) INDEPENDENT REVIEW.—The Secretary shall subject to independent review—

(1) the assessment under subsection (b);

(2) the identification and documentation of long-term management strategies under subsection (c);

(3) the demonstration projects under subsection (d); and

(4) the analysis under subsection (e).

(i) REPORTING.—

(1) IN GENERAL.—The Secretary shall submit to Congress an annual report that describes the results of carrying out this Act, including a synopsis of any independent review under subsection (h) and details of the manner and purposes for which funds are expended.

(2) PUBLIC ACCESS.—The Secretary shall facilitate public access to all information that results from carrying out this Act.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act—

(1) $20,000,000 for fiscal year 2005; and

(2) $15,000,000 for each subsequent fiscal year.

Amend the title so as to read: ''A bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the Commissioner of Reclamation, to carry out an assessment and demonstration program to control salt cedar and Russian olive, and for other purposes.''.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1516), as amended, was passed.

HARPERS FERRY NATIONAL HISTORICAL PARK BOUNDARY REVISION ACT OF 2003

The bill (S. 1576) to revise the boundary of Harpers Ferry National Historical Park, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time and passed; as follows:

S. 1576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Harpers Ferry National Historical Park Boundary Revision Act of 2003''.

SEC. 2. HARPERS FERRY NATIONAL HISTORICAL PARK.

The first section of the Act of June 30, 1944 (58 Stat. 645, chapter 328; 16 U.S.C. 450bb), is amended to read as follows:

''SECTION 1. HARPERS FERRY NATIONAL HISTORICAL PARK.

''(a) IN GENERAL.—To carry out the purposes of this Act, the Secretary of the Interior (referred to in this Act as the 'Secretary') is authorized to acquire, by purchase from a willing seller with donated or appropriated funds, by donation, or by exchange, land or an interest in land within the boundaries as generally depicted on the map entitled 'Boundary Map, Harpers Ferry National Historical Park', numbered 385–80,021A, and dated April 1979.

''(b) BRADLEY AND RUTH NASH ADDITION.—The Secretary is authorized to acquire, by donation only, approximately 27 acres of land or interests in land that are outside the boundary of the Harpers Ferry National Historical Park and generally depicted on the map entitled 'Proposed Bradley and Ruth Nash Addition—Harpers Ferry National Historical Park', numbered 385–80056, and dated April 1, 1989.

''(c) BOUNDARY EXPANSION.—

''(1) IN GENERAL.—The Secretary is authorized to acquire, by purchase from a willing seller with donated or appropriated funds, by donation, or by exchange, land or an interest in land within the area depicted as 'Private Lands' on the map entitled 'Harpers Ferry National Historical Park Proposed Boundary Expansion,' numbered 385/80,126, and dated July 14, 2003.

''(2) ADMINISTRATION.—The Secretary shall—

''(A) transfer to the National Park Service for inclusion in the Harpers Ferry National Historical Park (referred to in this Act as the 'Park') the land depicted on the map referred to in paragraph (1) as 'U.S. Fish and Wildlife Service Lands' and revise the boundary of the Park accordingly; and

''(B) revise the boundary of the Park to include the land depicted on the map referred to in paragraph (1) as 'Appalachian NST' and exclude that land from the boundary of the Appalachian National Scenic Trail.

''(d) MAXIMUM NUMBER OF ACRES.—The number of acres of the Park shall not exceed 3,745.

''(e) MAPS.—The maps referred to in this section shall be on file and available for public inspection in the appropriate offices of the National Park Service.

''(f) ACQUIRED LAND.—Land or an interest in land acquired under this section shall become a part of the Park, subject to the laws (including regulations) applicable to the Park.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

SEC. 3. CONFORMING AMENDMENTS.

Sections 2 and 3 of the Act of June 30, 1944 (58 Stat. 646, chapter 328; 16 U.S.C. 450bb–1, 450bb–2), are amended by striking ''Secretary of the Interior'' each place it appears and inserting ''Secretary''.

EXTENSION OF THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF A HYDROELECTRIC PROJECT IN THE STATE OF WYOMING

The bill (S. 1577) to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming, was considered, ordered to be engrossed for a third reading, read the third time and passed; as follows:

S. 1577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR THE FEDERAL ENERGY REGULATORY COMMISSION HYDROELECTRIC PROJECT.

Notwithstanding the time period specified in section 13 of Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 1651, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the

Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for three consecutive two-year periods from the date of the expiration of the extension originally issued by the Commission.

BEND PINE NURSERY LAND CONVEYANCE ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 1848) to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SALE OF BEND PINE NURSERY ADMINISTRATIVE SITE.

[The Bend Pine Nursery Land Conveyance Act (114 Stat. 2512) is amended—

[(1) in section 3—

[(A) in subsection (a)—

[(i) by striking paragraph (1);

[(ii) by redesignating paragraphs (2) through (7) as subparagraphs (A) through (F), respectively, and adjusting the margins appropriately; and

[(iii) by striking ''(a) IN GENERAL.—The Secretary may'' and inserting the following:

[''(a) IN GENERAL.—The Secretary—

[''(1) shall offer to sell to the Bend Metro Park and Recreation District in Deschutes County, Oregon, for consideration in the amount of $3,505,676, all right, title, and interest of the United States in and to approximately 170 acres of the parcel of land identified as Tract A, Bend Pine Nursery, as depicted on the site plan map entitled 'Bend Pine Nursery Administrative Site, May 13, 1999'; and

[''(2) may'';

[(B) by striking subsection (e)(3); and

[(C) by inserting after subsection (f) the following:

[''(g) BEND PINE NURSERY ADMINISTRATIVE SITE.—The land conveyed to the Bend Metro Park and Recreation District under section 3(a)(1)—

[''(1) shall be used only for recreation purposes; and

[''(2) may be developed for those purposes.''.

[(2) by redesignating section 6 as section 7; and

[(3) by inserting after section 5 the following:

[''SEC. 6. CONVEYANCE TO BEND-LA PINE SCHOOL DISTRICT.

[''The Secretary, in accordance with section 202 of the Education Land Grant Act (16 U.S.C. 479a), shall convey to Administrative School District No. 1, Deschutes County, Oregon, for no consideration, 15 acres of land located in the northwest corner of the tract described in section 3(a)(1), to be used for educational purposes.''.]

SECTION 1. MODIFICATION OF BEND PINE NURSERY LAND CONVEYANCE.

(a) DESIGNATION OF RECIPIENTS AND CONSIDERATION.—Section 3 of the Bend Pine Nursery Land Conveyance Act (Public Law 106–526; 114 Stat. 2512) is amended—

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (7) as paragraphs (1) through (6), respectively;

(2) in subsection (e)—

(A) by striking ''this section'' both places it appears and inserting ''subsection (a)'';

(B) in paragraph (1), by striking ''Subject to paragraph (3), the'' and inserting ''The''; and

(C) by striking paragraph (3); and

(3) by adding at the end the following:

''(g) BEND PINE NURSERY CONVEYANCE.—

''(1) CONVEYANCE TO PARK AND RECREATION DISTRICT.—Upon receipt of consideration in the amount of $3,503,676 from the Bend Metro Park and Recreation District in Deschutes County, Oregon, the Secretary shall convey to the Bend Metro Park and Recreation District all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 185 acres and containing the Bend Pine Nursery, as depicted on the site plan map entitled 'Bend Pine Nursery Administrative Site, May 13, 1999'. Subject to paragraph (2), the real property conveyed to the Bend Metro Park and Recreation District shall be used only for public recreation purposes and may be developed for those purposes. If the Secretary determines that the real property subject to this condition is converted, in whole or in part, to a use other than public recreation, the Secretary shall require the Bend Metro Park and Recreation District to pay to the United States an amount equal to the fair market value of the property at the time of conversion, less the consideration paid under this paragraph.

''(2) RECONVEYANCE OF PORTION TO SCHOOL DISTRICT.—As soon as practicable after the receipt by the Bend Metro Park and Recreation District of the real property described in paragraph (1), the Bend Metro Park and Recreation District shall convey to the Administrative School District No. 1, Deschutes County, Oregon, without consideration, a parcel of real property located in the northwest corner of the real property described in paragraph (1) and consisting of approximately 15 acres. The deed of conveyance shall contain a covenant requiring that the real property conveyed to the School District be used only for public education purposes.''.

(b) CONFORMING AMENDMENT.—Section 4(a) of such Act is amended by striking ''section 3(a)'' and inserting ''section 3''.

The amendment (No. 3216) was agreed to, as follows:

AMENDMENT NO. 3216

On page 4, line 22, strike ''1999'' and insert ''2004''.

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

The bill (S. 1848), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

NATIONAL PARK SYSTEM LAWS TECHNICAL AMENDMENTS ACT OF 2004

The bill (S. 2178) to make technical corrections to laws relating to certain units of the National Park System and to National Park programs, was considered, ordered to be engrossed for a third reading, read the third time and passed; as follows:

S. 2178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Park System Laws Technical Amendments Act of 2004''.

SEC. 2. LACKAWANNA VALLEY HERITAGE AREA.

Section 106 of the Lackawanna Valley National Heritage Area Act of 2000 (16 U.S.C. 461 note; Public Law 106–278) is amended by striking subsection (a) and inserting the following:

''(a) AUTHORITIES OF MANAGEMENT ENTITY.—For purposes of preparing and implementing the management plan, the management entity may—

''(1) make grants to, and enter into cooperative agreements with, the State and political subdivisions of the State, private organizations, or any person; and

''(2) hire and compensate staff.''.

SEC. 3. HAWAI'I VOLCANOES NATIONAL PARK.

Section 5 of the Act of June 20, 1938 (16 U.S.C. 392c) is amended by striking ''Hawaii Volcanoes'' each place it appears and inserting ''Hawai'i Volcanoes''.

SEC. 4. "I HAVE A DREAM" PLAQUE AT LINCOLN MEMORIAL.

Section 2 of Public Law 106–365 (114 Stat. 1409) is amended by striking ''and expand contributions'' and inserting ''and expend contributions''.

SEC. 5. WILD AND SCENIC RIVERS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by redesignating paragraph (162) (relating to White Clay Creek, Delaware and Pennsylvania) as paragraph (163);

(2) by designating the second paragraph (161) (relating to the Wekiva River, Wekiwa Springs Run, Rock Springs Run, and Black Water Creek, Florida) as paragraph (162);

(3) by designating the undesignated paragraph relating to the Wildhorse and Kiger Creeks, Oregon, as paragraph (164);

(4) by redesignating the third paragraph (161) (relating to the Lower Delaware River and associated tributaries, New Jersey and Pennsylvania) as paragraph (165) and by indenting appropriately; and

(5) by redesignating the undesignated paragraph relating to the Rivers of Caribbean National Forest, Puerto Rico, as paragraph (166).

SEC. 6. ROSIE THE RIVETER/WORLD WAR II HOME FRONT NATIONAL HISTORICAL PARK.

The Rosie the Riveter/World War II Home Front National Historical Park Establishment Act of 2000 (16 U.S.C. 410ggg et seq.) is amended—

(1) in section 2(b), by striking ''numbered 963/80000'' and inserting ''numbered 963/80,000''; and

(2) in section 3—

(A) in subsection (a)(1), by striking ''August 35'' and inserting ''August 25'';

(B) in subsection (b)(1), by striking ''the World War II Child Development Centers, the World War II worker housing, the Kaiser-Permanente Field Hospital, and Fire Station 67A'' and inserting ''the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A''; and

(C) in subsection (e)(2), by striking ''the World War II day care centers, the World War II worker housing, the Kaiser-Permanente Field Hospital, and Fire Station 67,'' and inserting ''the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A,''.

SEC. 7. VICKSBURG CAMPAIGN TRAIL BATTLEFIELDS.

The Vicksburg Campaign Trail Battlefields Preservation Act of 2000 (114 Stat. 2202) is amended—

(1) in section 2(a)(1), by striking ''and Tennessee'' and inserting ''Tennessee, and Kentucky''; and

(2) in section 3—

(A) in paragraph (1), by striking ''and Tennessee,'' and inserting ''Tennessee, and Kentucky,''; and

(B) in paragraph (2)—

(i) in subparagraph (R), by striking ''and'' at the end;

(ii) by redesignating subparagraph (S) as subparagraph (T); and

(iii) by inserting after subparagraph (R) the following:

''(S) Fort Heiman in Calloway County, Kentucky, and resources in and around Columbus in Hickman County, Kentucky; and''.

SEC. 8. HARRIET TUBMAN SPECIAL RESOURCE STUDY.

Section 3(c) of the Harriet Tubman Special Resource Study Act (Public Law 106–516; 114 Stat. 2405) is amended by striking ''Public Law 91–383'' and all that follows through ''(P.L. 105–391; 112 Stat. 3501)'' and inserting ''section 8 of Public Law 91–383 (16 U.S.C. 1a–5)''.

SEC. 9. PUBLIC LAND MANAGEMENT AGENCY FOUNDATIONS.

Employees of the foundations established by Acts of Congress to solicit private sector funds on behalf of Federal land management agencies shall qualify for General Service Administration contract airfares.

SEC. 10. SHORT TITLES.

(a) NATIONAL PARK SERVICE ORGANIC ACT.—The Act of August 25, 1916 (commonly known as the ''National Park Service Organic Act'') (16 U.S.C. 1 et seq.) is amended by adding at the end the following:

''SEC. 5. SHORT TITLE.

''This Act may be cited as the 'National Park Service Organic Act'.''.

(b) NATIONAL PARK SYSTEM GENERAL AUTHORITIES ACT.—Public Law 91–383 (commonly known as the ''National Park System General Authorities Act'') (16 U.S.C. 1a–1 et seq.) is amended by adding at the end the following:

''SEC. 14. SHORT TITLE.

''This Act may be cited as the 'National Park System General Authorities Act'.''.

SEC. 11. PARK POLICE INDEMNIFICATION.

Section 2(b) of Public Law 106–437 (114 Stat. 1921) is amended by striking ''the Act'' and inserting ''of the Act''.

SEC. 12. BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.

Section 1029 of division I of the Omnibus Parks and Public Lands Management Act of 1996 (110 Stat. 4233) is amended—

(1) in subsection (c)(2)(B)(i), by striking ''reference'' and inserting ''referenced''; and

(2) in subsection (d)(4), by inserting a period after ''plans''.

SEC. 13. NATIONAL HISTORIC PRESERVATION ACT.

Section 5(a)(8) of the National Historic Preservation Act Amendments of 2000 (Public Law 106–208; 114 Stat. 319) is amended by striking ''section 110(1)'' and inserting ''section 110(*l*)''.

SEC. 14. NATIONAL TRAILS SYSTEM ACT.

The National Trails System Act (16 U.S.C. 1241 et seq.) is amended—

(1) in section 5—

(A) in subsection (c)—

(i) in paragraph (19), by striking ''Kissimme'' and inserting ''Kissimmee'';

(ii) in paragraph (40)(D) by striking ''later that'' and inserting ''later than''; and

(iii) by designating the undesignated paragraphs relating to the Metacomet-Monadnock-Mattabesett Trail and The Long Walk Trail as paragraphs (41) and (42), respectively; and

(B) in the first sentence of subsection (d), by striking ''establishment.''; and

(2) in section 10(c)(1), by striking ''The Ice Age'' and inserting ''the Ice Age''.

SEC. 15. VICKSBURG NATIONAL MILITARY PARK.

Section 3(b) of the Vicksburg National Military Park Boundary Modification Act of 2002 (16 U.S.C. 430h–11) is amended by striking ''the Secretary add it'' and inserting ''the Secretary shall add the property''.

SEC. 16. ALLEGHENY PORTAGE RAILROAD NATIONAL HISTORIC SITE.

Section 2(2) of the Allegheny Portage Railroad National Historic Site Boundary Revision Act (Public Law 107–369; 116 Stat. 3069) is amended by striking ''NERO 423/80,014 and dated May 01'' and inserting ''NERO 423/80,014A and dated July 02''.

SEC. 17. TALLGRASS PRAIRIE NATIONAL PRESERVE.

Section 1006(b) of division I of the Omnibus Parks and Public Lands Management Act of 1996 (110 Stat. 4208) is amended by striking ''subsection (a)(1)'' and inserting ''subsection (a)''.

EXPANSION OF THE SLEEPING BEAR DUNES NATIONAL LAKESHORE

The bill (H.R. 408) to provide for expansion of Sleeping Bear Dunes National Lakeshore, was considered, ordered to a third reading, read the third time, and passed.

CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA PUBLIC LAND ORDER

The Senate proceeded to consider the bill (H.R. 417) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The amendment (No. 3217) was agreed to, as follows:

(Purpose: To adjust the boundaries of Green Mountain National Forest)

At the end, add the following:

SEC. ____. GREEN MOUNTAIN NATIONAL FOREST EXPANSION.

(a) IN GENERAL.—The boundaries of the Green Mountain National Forest are modified to include all parcels of land depicted on the forest maps entitled ''Green Mountain Expansion Area Map I'' and ''Green Mountain Expansion Area Map II'', each dated February 20, 2002, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(b) MANAGEMENT.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the Green Mountain National Forest, as adjusted by this Act, shall be considered to be the boundaries of the national forest as of January 1, 1965.

The bill (H.R. 417), as amended, was ordered to a third reading, read the third time, and passed.

CONVEYANCE OF CERTAIN LANDS IN MENDOCINO NATIONAL FOREST

The bill (H.R. 708) to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

REVISED PAYMENT CONTRACT WITH THE TOM GREEN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT

The bill (H.R. 856) to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

H.R. 856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TOM GREEN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1; REPAYMENT PERIOD EXTENDED.

The Secretary of the Interior may revise the repayment contract with the Tom Green County Water Control and Improvement District No. 1 numbered 14–06–500–369, by extending the period authorized for repayment of reimbursable constructions costs of the San Angelo project from 40 years to 50 years.

IRVINE BASIN SURFACE AND GROUNDWATER IMPROVEMENT ACT OF 2003

The bill (H.R. 1598) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

H.R. 1598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Irvine Basin Surface and Groundwater Improvement Act of 2003''.

SEC. 2. PROJECT AUTHORIZATION.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by inserting after section 1635 the following:

''SEC. 1636. IRVINE BASIN GROUNDWATER AND SURFACE WATER IMPROVEMENT PROJECTS.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Irvine Ranch Water District, California, is authorized to participate in the design, planning, and construction of projects to naturally treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the San Diego Creek Watershed.

''(b) COST SHARE.—The Federal share of the costs of the projects authorized by this section shall not exceed 25 percent of the total cost.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project authorized by this section.''.

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 is amended by inserting after the item relating to section 1635 the following:

''1636. Irvine basin groundwater and surface water improvement projects.''.

50TH ANNIVERSARY OF THE BROWN v. BOARD OF EDUCATION DECISION

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 414 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 414) expressing the sense of the Congress that, as Congress recognizes the 50th anniversary of the Brown v. Board of Education decision, all Americans are encouraged to observe this anniversary with a commitment to continuing and building on the legacy of Brown.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 414) was agreed to.

The preamble was agreed to.

Mr. DURBIN. Mr. President, I rise today to mark a bittersweet anniversary in our Nation's history. Fifty years ago today, the U.S. Supreme Court handed down the most important Court decision of the 20th century and perhaps of all time: Brown v. Board of Education.

Fifty years ago today, on May 17, 1954, the Supreme Court unanimously ruled that ''in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal.''

The Brown decision struck down laws that permitted racially segregated schools in 17 states and the District of Columbia. The Supreme Court said that such laws violate the fourteenth amendment of the U.S. Constitution—the amendment that was passed after the Civil War to guarantee ''equal protection of the laws.''

The day after Brown was handed down, the Chicago Daily Tribune wrote that the idea of educational equality ''may appear dangerously novel to some citizens, but the Supreme Court didn't invent it. Indeed, they can be said to have borrowed it from a distinguished Virginian named Thomas Jefferson.''

A May 19, 1954 editorial in the New York Times stated: ''The Supreme Court's historic decision in the school desegregation cases brings the United States back into the mainstream of its own best traditions. Segregation is a hangover of slavery, and its ugliest manifestation has been in the schools.''

The Brown decision was a victory for equality and a victory for America. But many African Americans had a muted reaction to the decision because it was so long overdue. As Richard Kluger wrote in the classic book Simple Justice:

Too many proclamations of white America's good intentions had reached African Americans' ears in the past to permit premature celebration now. There was added hesitation, no doubt in expressing open glee lest it be taken as a sign of gratitude and thereby provide whites the emotional satisfaction over a deed well done. For, upon analysis, all the Supreme Court had truly and at long last granted to the black man was simple justice.

The impact of the Brown decision occurred mainly in the South, but the Chicago Daily Sun-Times offered a prescient observation. In a May 19, 1954 editorial the Sun-Times wrote: ''We of the North would do well to apply ourselves with equal diligence and sincerity to our own unsolved problems of racial discrimination and prejudice.''

Indeed, there were segregated schools in my home State of Illinois in 1954—the Land of Lincoln. My State had a law that banned racial segregation in our public schools, but there was inadequate enforcement.

Although we have made great strides over the past century in Illinois and in our Nation, we continue to have severe racial disparities in our public school systems—50 years after Brown v. Board of Education.

For that reason, the 50th anniversary is bittersweet. In 2004, we see that the racism has not been alleviated. Equal opportunity has not been assured.

Our schools are not fully integrated. In Illinois, 92 percent of white children attend majority white schools, and 68 percent of Black children attend majority Black schools. School segregation for our rapidly growing Latino population is on the rise.

And our schools are not equal. In Illinois a Black child is about 40 times more likely to attend a school that has failed to meet State standards for 4 consecutive years, a so-called ''academic watch list'' school. A Latino student is 20 times more likely. But less than 1 percent of the White children in Illinois are enrolled at a school on the academic watch list.

The Supreme Court in Brown v. Board of Education stated that equal access to education is a civil right of every citizen. And what a promise that was. We believed racial disparities in education would eventually be erased.

In 2001, we realized that this promise had not been realized. We enacted No Child Left Behind to try and tackle the enduring problem of racial inequality in our public schools. No Child Left Behind requires schools to break out test scores by racial and economic categories to show that each segment of a school's population is succeeding.

Many of us worked in concert with the more conservative champions of the effort because we believed the law would provide more resources and more opportunities for minority children in public schools.

Today schools are struggling to implement the law without the promised resources. We have not lived up to the promise of No Child Left Behind. And we have not lived up to the promise of Brown v. Board of Education.

Many of our schools today are separate and unequal. This commemoration is bittersweet, but we have the means to make it less bitter and more sweet.

We can live up to the promise of the Brown decision by investing in our public schools rather than giving up on them. Giving vouchers to a handful of lucky families only leaves the have-nots in an increasingly hopeless situation.

We can live up to the promise of Brown by adopting the Student's Bill of Rights—requiring an equitable apportionment of funds and qualified teachers and small class sizes.

We can live up to the promise of Brown by fully funding the Individuals with Disabilities Education Act, ensuring that students with disabilities can exercise their right to a public education.

We can live up to the promise of Brown by funding No Child Left Behind as promised, making it possible for struggling schools to improve the quality of education for all its students.

Let us honor the legacy of the Supreme Court's historic decision in Brown v. Board of Education by making the appropriate investments in public education and working to ensure equality of opportunity.

TAX ADMINISTRATION GOOD GOVERNMENT ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 498, S. 882.

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

The legislative clerk read as follows:

A bill (S. 882) to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike all after enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; ETC.

[(a) SHORT TITLE.—This Act may be cited as the ''Tax Administration Good Government Act''.

[(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

[Sec. 1. Short title; etc.

[TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

[Subtitle A—Improving Efficiency and Safeguards in Internal Revenue Service Collection

[Sec. 101. Waiver of user fee for installment agreements using automated withdrawals.
[Sec. 102. Partial payment of tax liability in installment agreements.
[Sec. 103. Termination of installment agreements.
[Sec. 104. Office of Chief Counsel review of offers in compromise.
[Sec. 105. Seven-day threshold on tolling of statute of limitations during National Taxpayer Advocate review.
[Sec. 106. Increase in penalty for bad checks or money orders.
[Sec. 107. Financial management service fees.
[Sec. 108. Elimination of restriction on offsetting refunds from former residents.

[Subtitle B—Processing and Personnel

[Sec. 111. Explanation of statute of limitations and consequences of failure to file.
[Sec. 112. Disclosure of tax information to facilitate combined employment tax reporting.
[Sec. 113. Expansion of declaratory judgment remedy to tax-exempt organizations.
[Sec. 114. Amendment to Treasury auction reforms.
[Sec. 115. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
[Sec. 116. IRS Oversight Board approval of use of critical pay authority.
[Sec. 117. Low-income taxpayer clinics.
[Sec. 118. Enrolled agents.
[Sec. 119. Establishment of disaster response team.
[Sec. 120. Accelerated tax refunds.
[Sec. 121. Study on clarifying record-keeping responsibilities.
[Sec. 122. Streamline reporting process for National Taxpayer Advocate.

[Subtitle C—Other Provisions

[Sec. 131. Penalty on failure to report interests in foreign financial accounts.
[Sec. 132. Repeal of personal holding company tax.

[TITLE II—REFORM OF PENALTY AND INTEREST

[Sec. 201. Individual estimated tax.
[Sec. 202. Corporate estimated tax.
[Sec. 203. Increase in large corporation threshold for estimated tax payments.
[Sec. 204. Abatement of interest.
[Sec. 205. Deposits made to suspend running of interest on potential underpayments.
[Sec. 206. Freeze of provision regarding suspension of interest where Secretary fails to contact taxpayer.
[Sec. 207. Expansion of interest netting.
[Sec. 208. Clarification of application of Federal tax deposit penalty.
[Sec. 209. Frivolous tax submissions.

[TITLE III—UNITED STATES TAX COURT MODERNIZATION

[Subtitle A—Tax Court Procedure

[Sec. 301. Jurisdiction of Tax Court over collection due process cases.
[Sec. 302. Authority for special trial judges to hear and decide certain employment status cases.
[Sec. 303. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.
[Sec. 304. Tax Court filing fee in all cases commenced by filing petition.
[Sec. 305. Amendments to appoint employees.
[Sec. 306. Expanded use of Tax Court practice fee for pro se taxpayers.

[Subtitle B—Tax Court Pension and Compensation

[Sec. 311. Annuities for survivors of Tax Court judges who are assassinated.
[Sec. 312. Cost-of-living adjustments for Tax Court judicial survivor annuities.
[Sec. 313. Life insurance coverage for Tax Court judges.
[Sec. 314. Cost of life insurance coverage for Tax Court judges age 65 or over.
[Sec. 315. Modification of timing of lump-sum payment of judges' accrued annual leave.
[Sec. 316. Participation of Tax Court judges in the Thrift Savings Plan.
[Sec. 317. Exemption of teaching compensation of retired judges from limitation on outside earned income.
[Sec. 318. General provisions relating to magistrate judges of the Tax Court.
[Sec. 319. Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court.
[Sec. 320. Retirement and annuity program.
[Sec. 321. Incumbent magistrate judges of the Tax Court.
[Sec. 322. Provisions for recall.
[Sec. 323. Effective date.

[TITLE IV—CONFIDENTIALITY AND DISCLOSURE

[Sec. 401. Clarification of definition of church tax inquiry.
[Sec. 402. Collection activities with respect to joint return disclosable to either spouse based on oral request.
[Sec. 403. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
[Sec. 404. Prohibition of disclosure of taxpayer identifying number with respect to disclosure of accepted offers-in-compromise.
[Sec. 405. Compliance by contractors and other agents with confidentiality safeguards.
[Sec. 406. Higher standards for requests for and consents to disclosure.
[Sec. 407. Civil damages for unauthorized inspection or disclosure.
[Sec. 408. Expanded disclosure in emergency circumstances.
[Sec. 409. Disclosure of taxpayer identity for tax refund purposes.
[Sec. 410. Disclosure to State officials of proposed actions related to section 501(c) organizations.
[Sec. 411. Treatment of public records.
[Sec. 412. Investigative disclosures.
[Sec. 413. TIN matching.
[Sec. 414. Form 8300 disclosures.
[Sec. 415. Technical amendment.

[TITLE V—SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS

[Sec. 501. Simplification through elimination of inoperative provisions.

[TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

[Subtitle A—Improving Efficiency and Safeguards in Internal Revenue Service Collection

[SEC. 101. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

[(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

[''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

[SEC. 102. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

[(a) IN GENERAL.—

[(1) Section 6159(a) (relating to authorization of agreements) is amended—

[(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

[(B) by inserting ''full or partial'' after ''facilitate''.

[(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

[(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

[''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

[SEC. 103. TERMINATION OF INSTALLMENT AGREEMENTS.

[(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

[''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

[''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

[(b) CONFORMING AMENDMENT.—Section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

[SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

[(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking ''Whenever a compromise'' and all that follows through ''his delegate'' and inserting ''If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion''.

[(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

[SEC. 105. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING NATIONAL TAXPAYER ADVOCATE REVIEW.

[(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after ''application,'' the following: ''but only if the date of such decision is at least 7 days after the date of the taxpayer's application''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

[SEC. 106. INCREASE IN PENALTY FOR BAD CHECKS OR MONEY ORDERS.

[(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

[(1) by striking ''$750'' and inserting ''$1,250'', and

[(2) by striking ''$15'' and inserting ''$25''.

[(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after December 31, 2003.

[SEC. 107. FINANCIAL MANAGEMENT SERVICE FEES.

[Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

[SEC. 108. ELIMINATION OF RESTRICTION ON OFFSETTING REFUNDS FROM FORMER RESIDENTS.

[Section 6402(e) (relating to collection of past-due, legally enforceable State income tax obligations) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

[Subtitle B—Processing and Personnel

[SEC. 111. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

[The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2001 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

[(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

[(2) the consequences under such section 6511 of the failure to file a return of tax.

[SEC. 112. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

[Section 6103(d)(5) is amended to read as follows:

[''(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.''.

[SEC. 113. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

[(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

[(1) in subparagraph (B) by inserting after ''509(a))'' the following: ''or as a private operating foundation (as defined in section 4942(j)(3))''; and

[(2) by amending subparagraph (C) to read as follows:

[''(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or''.

[(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking ''United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia'' and inserting the following: ''United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2003.

[SEC. 114. AMENDMENT TO TREASURY AUCTION REFORMS.

[(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon ''(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to meetings held after the date of the enactment of this Act.

[SEC. 115. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

[(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

[''SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

[''(a) IN GENERAL.—Subject to subsection (c), the Commissioner shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

[''(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

[''(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets,

[''(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative,

[''(3) with respect to a taxpayer or taxpayer representative, the violation of—

[''(A) any right under the Constitution of the United States, or

[''(B) any civil right established under—

[''(i) title VI or VII of the Civil Rights Act of 1964,

[''(ii) title IX of the Education Amendments of 1972,

[''(iii) the Age Discrimination in Employment Act of 1967,

[''(iv) the Age Discrimination Act of 1975,

[''(v) section 501 or 504 of the Rehabilitation Act of 1973, or

[''(vi) title I of the Americans with Disabilities Act of 1990,

[''(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative,

[''(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery,

[''(6) violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative,

[''(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry,

[''(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect,

[''(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect, and

[''(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

[''(c) DETERMINATIONS OF COMMISSIONER.—

[''(1) IN GENERAL.—The Commissioner may take a personnel action other than termination for an act or omission described under subsection (b).

[''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in the Commissioner's sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

[''(3) NO APPEAL.—Any determination of the Commissioner under this subsection may not be appealed in any administrative or judicial proceeding.

[''(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.''.

[(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

[''Sec. 7804A. Termination of employment for misconduct.''.

[(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

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

[SEC. 116. IRS OVERSIGHT BOARD APPROVAL OF USE OF CRITICAL PAY AUTHORITY.

[(a) IN GENERAL.—Section 7802(d)(3) (relating to management) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ''; and'', and by adding at the end the following new subparagraph:

[''(D) review and approve the Commissioner's use of critical pay authority under section 9502 of title 5, United States Code, and streamlined critical pay authority under section 9503 of such title.''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to personnel hired after the date of the enactment of this Act.

[SEC. 117. LOW-INCOME TAXPAYER CLINICS.

[(a) GRANTS FOR RETURN PREPARATION CLINICS.—

[(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

[''SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

[''(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

[''(b) DEFINITIONS.—For purposes of this section—

[''(1) QUALIFIED RETURN PREPARATION CLINIC.—

[''(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

[''(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

[''(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

[''(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

[''(2) CLINIC.—The term 'clinic' includes—

[''(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

[''(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

[''(c) SPECIAL RULES AND LIMITATIONS.—

[''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

[''(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.''.

[(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

[''Sec. 7526A. Return preparation clinics for low-income taxpayers.''.

[(b) GRANTS FOR TAXPAYER REPRESENTATION AND ASSISTANCE CLINICS.—

[(1) INCREASE IN AUTHORIZED GRANTS.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking ''$6,000,000'' and inserting ''$10,000,000''.

[(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—

[(A) IN GENERAL.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

[''(6) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.''.

[(B) CONFORMING AMENDMENTS.—Section 7526(c)(5) is amended—

[(i) by inserting ''qualified'' before ''low-income'', and

[(ii) by striking the last sentence.

[(3) PROMOTION OF CLINICS.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

[''(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

[SEC. 118. ENROLLED AGENTS.

[(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

[''SEC. 7527. ENROLLED AGENTS.

[''(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

[''(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.''.

[(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

[''Sec. 7527. Enrolled agents.''.

[(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

[SEC. 119. ESTABLISHMENT OF DISASTER RESPONSE TEAM.

[(a) IN GENERAL.—Section 7508A (relating to authority to postpone certain tax-related deadlines by reason of presidentially declared disaster) is amended by adding at the end the following new subsection:

[''(c) DUTIES OF DISASTER RESPONSE TEAM.—

[''(1) RESPONSE TO DISASTERS.—The Secretary shall—

[''(A) establish as a permanent office in the national office of the Internal Revenue Service a disaster response team composed of members, who in addition to their regular responsibilities, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as so defined), and

[''(B) respond to requests by such taxpayers for filing extensions and technical guidance expeditiously.

[''(2) PERSONNEL OF DISASTER RESPONSE TEAM.—The disaster response team shall be composed of—

[''(A) personnel from the Office of the Taxpayer Advocate, and

[''(B) personnel from the national office of the Internal Revenue Service with expertise in individual, corporate, and small business tax matters.

[''(3) COORDINATION WITH FEMA.—The disaster response team shall operate in coordination with the Director of the Federal Emergency Management Agency.

[''(4) TOLL-FREE TELEPHONE NUMBER.—The Commissioner of Internal Revenue shall establish and maintain a toll-free telephone number for taxpayers to use to receive assistance from the disaster response team.

[''(5) INTERNET WEBPAGE SITE.—The Commissioner of Internal Revenue shall establish and maintain a site on the Internet webpage of the Internal Revenue Service for information for taxpayers described in paragraph (1)(A).''.

[(b) FEMA.—The Director of the Federal Emergency Management Agency shall work in coordination with the disaster response team established under section 7804(c)(1)(A) of the Internal Revenue Code of 1986 to provide timely assistance to disaster victims described in such section, including—

[(1) informing the disaster response team regarding any tax-related problems or issues arising in connection with the disaster,

[(2) providing the toll-free telephone number established and maintained by the Internal Revenue Service for the disaster victims in all materials provided to such victims, and

[(3) providing the information described in section 7804(c)(5) of such Code on the Internet webpage of the Federal Emergency Management Agency or through a link on such webpage to the Internet webpage site of the Internal Revenue Service described in such section.

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

[SEC. 120. ACCELERATED TAX REFUNDS.

[(a) STUDY.—The Secretary of the Treasury shall study the implementation of an accelerated refund program for taxpayers who—

[(1) maintain the same filing characteristics from year to year, and

[(2) elect the direct deposit option for any refund under the program.

[(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

[SEC. 121. STUDY ON CLARIFYING RECORD-KEEPING RESPONSIBILITIES.

[(a) STUDY.—The Secretary of the Treasury shall study—

[(1) the scope of the records required to be maintained by taxpayers under section 6001 of the Internal Revenue Code of 1986,

[(2) the utility of requiring taxpayers to maintain all records indefinitely,

[(3) such requirement given the necessity to upgrade technological storage for outdated records,

[(4) the number of negotiated records retention agreements requested by taxpayers and the number entered into by the Internal Revenue Service, and

[(5) proposals regarding taxpayer recordkeeping.

[(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

[SEC. 122. STREAMLINE REPORTING PROCESS FOR NATIONAL TAXPAYER ADVOCATE.

[(a) ONE ANNUAL REPORT.—Subparagraph (B) of section 7803(c)(2) (relating to functions of Office) is amended—

[(1) by striking all matter preceding subclause (I) of clause (ii) and inserting the following:

[''(B) ANNUAL REPORT.—

[''(i) IN GENERAL.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer of Advocate for the fiscal year beginning in such calendar year and the activities of such Office during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—'',

[(2) by striking ''clause (ii)'' in clause (iv) and inserting ''clause (i)'', and

[(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to reports in calendar year 2003 and thereafter.

[Subtitle C—Other Provisions

[SEC. 131. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

[(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

[''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

[''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

[''(B) AMOUNT OF PENALTY.—

[''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

[''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

[''(I) such violation was due to reasonable cause, and

[''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

[''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

[''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

[''(I) $25,000, or

[''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

[''(ii) subparagraph (B)(ii) shall not apply.

[''(D) AMOUNT.—The amount determined under this subparagraph is—

[''(i) in the case of a violation involving a transaction, the amount of the transaction, or

[''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

[SEC. 132. REPEAL OF PERSONAL HOLDING COMPANY TAX.

[(a) IN GENERAL.—Part II of subchapter G of chapter 1 (relating to personal holding companies) is hereby repealed.

[(b) CONFORMING AMENDMENTS.—

[(1) Section 12(2) is amended to read as follows:

[''(2) For accumulated earnings tax, see part I of subchapter G (sec. 531 and following).''.

[(2) Section 26(b)(2) is amended by striking subparagraph (G) and by redesignating the succeeding subparagraphs accordingly.

[(3) Section 30A(c) is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

[(4) Section 41(e)(7)(E) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(5) Section 56(b)(2) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

[(6) Section 170(e)(4)(D) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(7) Section 111(d) is amended to read as follows:

[''(d) SPECIAL RULES FOR ACCUMULATED EARNINGS TAX.—In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531—

[''(1) any excluded amount under subsection (a) allowed for purposes of this subtitle (other than section 531) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 for the prior taxable year, and

[''(2) where any excluded amount under subsection (a) was not allowed as a deduction for the prior taxable year for purposes of this subtitle other than section 531 but was allowable for the same taxable year under section 531, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531.''.

[(8)(A) Section 316(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

[(B) Section 331(b) is amended by striking ''(other than a distribution referred to in paragraph (2)(B) of section 316(b))''.

[(9) Section 341(d) is amended—

[(A) by striking ''section 544(a)'' and inserting ''section 465(f)'', and

[(B) by inserting before the period at the end of the next to the last sentence ''and such paragraph (2) shall be applied by inserting 'by or for his partner' after 'his family' ''.

[(10) Section 381(c) is amended by striking paragraphs (14) and (17).

[(11) Section 443(e) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

[(12) Section 447(g)(4)(A) is amended by striking ''other than—'' and all that follows and inserting ''other than an S corporation.''

[(13)(A) Section 465(a)(1)(B) is amended to read as follows:

[''(B) a C corporation which is closely held,''.

[(B) Section 465(a)(3) is amended to read as follows:

[''(3) CLOSELY HELD DETERMINATION.—For purposes of paragraph (1), a corporation is closely held if, at any time during the last half of the taxable year, more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than 5 individuals. For purposes of this paragraph, an organization described in section 401(a), 501(c)(17), or 509(a) or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) shall be considered an individual.''

[(C) Section 465 is amended by adding at the end the following new subsection:

[''(f) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of subsection (a)(3)—

[''(1) STOCK NOT OWNED BY INDIVIDUAL.—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

[''(2) FAMILY OWNERSHIP.—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family. For purposes of this paragraph, the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

[''(3) OPTIONS.—If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

[''(4) APPLICATION OF FAMILY AND OPTION RULES.—Paragraphs (2) and (3) shall be applied if, but only if, the effect is to make the corporation closely held under subsection (a)(3).

[''(5) CONSTRUCTIVE OWNERSHIP AS ACTUAL OWNERSHIP.—Stock constructively owned by a person by reason of the application of paragraph (1) or (3), shall, for purposes of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for purposes of again applying such paragraph in order to make another the constructive owner of such stock.

[''(6) OPTION RULE IN LIEU OF FAMILY RULE.—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

[''(7) CONVERTIBLE SECURITIES.—Outstanding securities convertible into stock

(whether or not convertible during the taxable year) shall be considered as outstanding stock if the effect of the inclusion of all such securities is to make the corporation closely held under subsection (a)(3). The requirement under the preceding sentence that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.''

[(D) Section 465(c)(7)(B) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

[(E) Section 465(c)(7)(G) is amended to read as follows:

[''(G) LOSS OF 1 MEMBER OF AFFILIATED GROUP MAY NOT OFFSET INCOME OF PERSONAL SERVICE CORPORATION.—Nothing in this paragraph shall permit any loss of a member of an affiliated group to be used as an offset against the income of any other member of such group which is a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2)).''

[(14) Sections 508(d), 4947, and 4948(c)(4) are each amended by striking ''545(b)(2),'' each place it appears.

[(15) Section 532(b) is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

[(16) Sections 535(b)(1) and 556(b)(1) are each amended by striking ''section 541'' and inserting ''section 541 (as in effect before its repeal)''.

[(17)(A) Section 553(a)(1) is amended by striking ''section 543(d)'' and inserting ''subsection (c)''.

[(B) Section 553 is amended by adding at the end the following new subsection:

[''(c) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—

[''(1) IN GENERAL.—For purposes of subsection (a), the term 'active business computer software royalties' means any royalties—

[''(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

[''(B) with respect to which the requirements of paragraphs (2), (3), (4), and (5) are met.

[''(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

[''(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

[''(B) are attributable to computer software which—

[''(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

[''(ii) is directly related to such trade or business.

[''(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.

[''(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

[''(A) IN GENERAL.—The requirements of this paragraph are met if—

[''(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

[''(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

[''(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

[''(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the 5 individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account.''

[(18) Section 561(a) is amended by striking paragraph (3), by inserting ''and'' at the end of paragraph (1), and by striking '', and'' at the end of paragraph (2) and inserting a period.

[(19) Section 562(b) is amended to read as follows:

[''(b) DISTRIBUTIONS IN LIQUIDATION.—Except in the case of a foreign personal holding company described in section 552—

[''(1) in the case of amounts distributed in liquidation, the part of such distribution which is properly chargeable to earnings and profits accumulated after February 28, 1913, shall be treated as a dividend for purposes of computing the dividends paid deduction, and

[''(2) in the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.

For purposes of paragraph (1), a liquidation includes a redemption of stock to which section 302 applies. Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company.''

[(20) Section 563 is amended by striking subsection (b).

[(21) Section 564 is hereby repealed.

[(22) Section 631(c) is amended by striking ''or section 545(b)(5)''.

[(23) Section 852(b)(1) is amended by striking ''which is a personal holding company (as defined in section 542) or''.

[(24)(A) Section 856(h)(1) is amended to read as follows:

[''(1) IN GENERAL.—For purposes of subsection (a)(6), a corporation, trust, or association is closely held if the stock ownership requirement of section 465(a)(3) is met.''

[(B) Section 856(h)(3)(A)(i) is amended by striking ''section 542(a)(2)'' and inserting ''section 465(a)(3)''.

[(C) Paragraph (3) of section 856(h) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

[(D) Subparagraph (C) of section 856(h)(3), as redesignating by the preceding subparagraph, is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

[(25) The last sentence of section 882(c)(2) is amended to read as follows:

''The preceding sentence shall not be construed to deny the credit provided by section 33 for tax withheld at source or the credit provided by section 34 for certain uses of gasoline.''.

[(26) Section 936(a)(3) is amended by striking subparagraph (C), by inserting ''or'' at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).

[(27) Section 992(d) is amended by striking paragraph (2) and by redesignating succeeding paragraphs accordingly.

[(28) Section 992(e) is amended by striking ''and section 541 (relating to personal holding company tax)''.

[(29) Section 1202(e)(8) is amended by striking ''section 543(d)(1)'' and inserting ''section 553(c)(1)''.

[(30) Section 1362(d)(3)(C)(iii) is amended by adding at the end the following new sentence: ''References to section 542 in the preceding sentence shall be treated as references to such section as in effect on the day before its repeal.''

[(31) Section 1504(c)(2)(B) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(32) Section 2057(e)(2)(C) is amended by adding at the end the following new sentence: ''References to sections 542 and 543 in the preceding sentence shall be treated as references to such sections as in effect on the day before their repeal.''

[(33) Sections 6422 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (12) and paragraphs (3) through (11), respectively.

[(34) Section 6501 is amended by striking subsection (f).

[(35) Section 6503(k) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

[(36) Section 6515 is amended by striking paragraph (1) and by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

[(37) Subsections (d)(1)(B) and (e)(2) of section 6662 are each amended by striking ''or a personal holding company (as defined in section 542)''.

[(38) Section 6683 is hereby repealed.

[(c) CLERICAL AMENDMENTS.—

[(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part II.

[(2) The table of sections for part IV of such subchapter G is amended by striking the item relating to section 564.

[(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6683.

[(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 2003.

[TITLE II—REFORM OF PENALTY AND INTEREST

[SEC. 201. INDIVIDUAL ESTIMATED TAX.

[(a) INCREASE IN EXCEPTION FOR INDIVIDUALS OWING SMALL AMOUNT OF TAX.—Section 6654(e)(1) (relating to exception where tax is small amount) is amended by striking ''$1,000'' and inserting ''$2,000''.

[(b) COMPUTATION OF ADDITION TO TAX.—Subsections (a) and (b) of section 6654 (relating to failure by individual to pay estimated taxes) are amended to read as follows:

[''(a) ADDITION TO THE TAX.—

[''(1) IN GENERAL.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual for a taxable year, there shall be added to the tax under chapters 1 and 2 for the taxable year the amount determined under paragraph (2) for each day of underpayment.

[''(2) AMOUNT.—The amount of the addition to tax for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

[''(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

[''(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

[''(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

[''(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

[''(2) DETERMINATION OF INTEREST RATE.—

[''(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

[''(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

[''(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

[''(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.''

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

[SEC. 202. CORPORATE ESTIMATED TAX.

[(a) INCREASE IN SMALL TAX AMOUNT EXCEPTION.—Section 6655(f) (relating to exception where tax is small amount) is amended by striking ''$500'' and inserting ''$1,000''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

[SEC. 203. INCREASE IN LARGE CORPORATION THRESHOLD FOR ESTIMATED TAX PAYMENTS.

[(a) IN GENERAL.—Section 6655(g)(2) (defining large corporation) is amended—

[(1) by striking ''$1,000,000'' in subparagraph (A) and inserting ''the applicable amount'',

[(2) by redesignating subparagraph (B) as subparagraph (C), and

[(3) by inserting after subparagraph (A) the following new subparagraph:

[''(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount is $1,000,000 increased (but not above $1,500,000) by $50,000 for each taxable year beginning after 2004.''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

[SEC. 204. ABATEMENT OF INTEREST.

[(a) ABATEMENT OF INTEREST FOR PERIODS ATTRIBUTABLE TO ANY UNREASONABLE IRS ERROR OR DELAY.—Section 6404(e)(1) is amended—

[(1) by striking ''in performing a ministerial or managerial act'' in subparagraphs (A) and (B),

[(2) by striking ''deficiency'' in subparagraph (A) and inserting ''underpayment of any tax, addition to tax, or penalty imposed by this title'', and

[(3) by striking ''tax described in section 6212(a)'' in subparagraph (B) and inserting ''tax, addition to tax, or penalty imposed by this title''.

[(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

[(1) in the subsection heading, by striking ''PENALTY OR ADDITION'' and inserting ''INTEREST, PENALTY, OR ADDITION''; and

[(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking ''penalty or addition'' and inserting ''interest, penalty, or addition''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

[SEC. 205. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

[(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

[''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

[''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

[''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

[''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

[''(d) PAYMENT OF INTEREST.—

[''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

[''(2) DISPUTABLE TAX.—

[''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

[''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

[''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

[''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

[''(i) has a reasonable basis for its treatment of such item, and

[''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

[''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

[''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

[''(e) USE OF DEPOSITS.—

[''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

[''(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

[(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

[''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

[(c) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after December 31, 2003.

[(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

[SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

[(a) IN GENERAL.—Section 6404(G) (relating to suspension of interest and certain penalties where secretary fails to contact taxpayer) is amended by striking ''1-year period (18-month period in the case of taxable years beginning before January 1, 2004)'' both places it appears and inserting ''18-month period''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

[SEC. 207. EXPANSION OF INTEREST NETTING.

[(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: ''Solely for purposes of the preceding sentence, section 6611(e) shall not apply.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after December 31, 2003.

[SEC. 208. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

[Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

[SEC. 209. FRIVOLOUS TAX SUBMISSIONS.

[(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

[''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

[''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

[''(1) such person files what purports to be a return of a tax imposed by this title but which—

[''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

[''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

[''(2) the conduct referred to in paragraph (1)—

[''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

[''(B) reflects a desire to delay or impede the administration of Federal tax laws.

[''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

[''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

[''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

[''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

[''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

[''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

[''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

[''(i) a request for a hearing under—

[''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

[''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

[''(ii) an application under—

[''(I) section 7811 (relating to taxpayer assistance orders),

[''(II) section 6159 (relating to agreements for payment of tax liability in installments), or

[''(III) section 7122 (relating to compromises).

[''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

[''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

[''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

[''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''

[(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

[(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

[''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

[(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

[(A) by striking ''(A)'' and inserting ''(A)(i)'';

[(B) by striking ''(B)'' and inserting ''(ii)'';

[(C) by striking the period at the end of the first sentence and inserting ''; or''; and

[(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

[''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''

[(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

[(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

[(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

[(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

[(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

[''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

[(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

'[''Sec. 6702. Frivolous tax submissions.''

[(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

[TITLE III—UNITED STATES TAX COURT MODERNIZATION

[Subtitle A—Tax Court Procedure

[SEC. 301. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

[(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

[''(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date of the enactment of this Act.

[SEC. 302. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

[(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

[''(5) any proceeding under section 7436(c), and''.

[(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking ''or (4)'' and inserting ''(4), or (5)''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

[SEC. 303. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

[(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

[SEC. 304. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

[(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows ''petition'' and inserting a period.

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

[SEC. 305. AMENDMENTS TO APPOINT EMPLOYEES.

[(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

[''(a) APPOINTMENT AND COMPENSATION.—

[''(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

[''(2) LAW CLERKS AND SECRETARIES.—

[''(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

[''(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

[''(3) DEPUTIES AND OTHER EMPLOYEES.—The clerk may appoint necessary deputies and employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such deputies and employees shall be subject to removal by the clerk.

[''(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of

title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

[''(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

[''(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

[''(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

[''(B) promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment.

[''(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

[''(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

[''(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

[''(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

[''(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

[''(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

[''(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

[''(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

[''(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

[''(A) include the principles set forth in section 2301(b) of title 5, United States Code;

[''(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

[''(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

[SEC. 306. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

[(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end ''and to provide services to pro se taxpayers''.

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

[Subtitle B—Tax Court Pension and Compensation

[SEC. 311. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

[(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

[''(h) ENTITLEMENT TO ANNUITY.—

[''(1) IN GENERAL.—

[''(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

[''(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

[''(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

[''(ii) 20 percent of such average annual salary, divided by the number of such children.

[''(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

[''(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

[''(ii) 40 percent of such average annual salary, divided by the number of such children.

[''(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

[''(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

[''(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

[''(3) TERMINATION OF ANNUITY.—

[''(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

[''(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

[''(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

[''(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

[''(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

[''(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

[''(B) the amount of such salary deductions that were actually made before the date of the judge's death.

[(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

[''(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.''.

[(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

[(1) by striking the subsection heading and inserting the following:

[''(i) DETERMINATIONS BY CHIEF JUDGE.—

[''(1) DEPENDENCY AND DISABILITY.—'',

[(2) by moving the text 2 ems to the right, and

[(3) by adding at the end the following new paragraph:

[''(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.''.

[(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

[(1) by striking the subsection heading and inserting the following:

[''(m) COMPUTATION OF ANNUITIES.—

[''(1) IN GENERAL.—'',

[(2) by moving the text 2 ems to the right, and

[(3) by adding at the end the following new paragraph:

[''(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.''.

[(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

[''(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and

chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.''.

[SEC. 312. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

[(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

[''(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

[SEC. 313. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

[(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

[''(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.

[SEC. 314. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

[Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: ''Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.''.

[SEC. 315. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

[(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

[''(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

[SEC. 316. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

[(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

[''(k) THRIFT SAVINGS PLAN.—

[''(1) ELECTION TO CONTRIBUTE.—

[''(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

[''(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

[''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

[''(3) SPECIAL RULES.—

[''(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

[''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

[''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

[''(i) retires under subsection (b), or

[''(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

[''(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

[''(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.

[SEC. 317. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

[(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

[''(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under subsection (a)(5) of that section shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

[SEC. 318. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

[(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

[''SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.''.

[(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

[''(a) APPOINTMENT, TENURE, AND REMOVAL.—

[''(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

[''(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.''.

[(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking ''90'' and inserting ''92''.

[(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

[''(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

[''(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

[''(2) TREATMENT OF UNUSED LEAVE.—

[''(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

[''(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code,

except that these days will not be counted in determining average pay or annuity eligibility.

[''(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.''.

[(e) CONFORMING AMENDMENTS.—

[(1) The heading of subsection (b) of section 7443A is amended by striking ''SPECIAL TRIAL JUDGES'' and inserting ''MAGISTRATE JUDGES OF THE TAX COURT''.

[(2) Section 7443A(b) is amended by striking ''special trial judges of the court'' and inserting ''magistrate judges of the Tax Court''.

[(3) Subsections (c) and (d) of section 7443A are amended by striking ''special trial judge'' and inserting ''magistrate judge of the Tax Court'' each place it appears.

[(4) Section 7443A(e) is amended by striking ''special trial judges'' and inserting ''magistrate judges of the Tax Court''.

[(5) Section 7456(a) is amended by striking ''special trial judge'' each place it appears and inserting ''magistrate judge''.

[(6) Subsection (c) of section 7471 is amended—

[(A) by striking the subsection heading and inserting ''MAGISTRATE JUDGES OF THE TAX COURT.—'', and

[(B) by striking ''special trial judges'' and inserting ''magistrate judges''.

[SEC. 319. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

[(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

[''(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

[''(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.''.

[(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

[(1) by striking the subsection heading and inserting the following:

[''(b) ELECTION.—

[''(1) JUDGES.—'',

[(2) by moving the text 2 ems to the right, and

[(3) by adding at the end the following new paragraph:

[''(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

[''(A) 6 months after the date of the enactment of this paragraph,

[''(B) the date the judge takes office, or

[''(C) the date the judge marries.''.

[(c) CONFORMING AMENDMENTS.—

[(1) The heading of section 7448 is amended by inserting ''**AND MAGISTRATE JUDGES**'' after ''**JUDGES**''.

[(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting ''and magistrate judges'' after ''judges''.

[(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

[(A) by inserting ''or magistrate judge'' after ''judge'' each place it appears other than in the phrase ''chief judge'', and

[(B) by inserting ''or magistrate judge's'' after ''judge's'' each place it appears.

[(4) Section 7448(c) is amended—

[(A) in paragraph (1), by striking ''Tax Court judges'' and inserting ''Tax Court judicial officers'',

[(B) in paragraph (2)—

[(i) in subparagraph (A), by inserting ''and section 7443A(d)'' after ''(a)(4)'', and

[(ii) in subparagraph (B), by striking ''subsection (a)(4)'' and inserting ''subsections (a)(4) and (a)(6)''.

[(5) Section 7448(g) is amended by inserting ''or section 7443B'' after ''section 7447'' each place it appears, and by inserting ''or an annuity'' after ''retired pay''.

[(6) Section 7448(j)(1) is amended—

[(A) in subparagraph (A), by striking ''service or retired'' and inserting ''service, retired'', and by inserting '', or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code,'' after ''section 7447'', and

[(B) in the last sentence, by striking ''subsections (a)(6) and (7)'' and inserting ''paragraphs (8) and (9) of subsection (a)''.

[(7) Section 7448(m)(1), as amended by this Act, is amended—

[(A) by inserting ''or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code'' after ''7447(d)'', and

[(B) by inserting ''or 7443B(m)(1)(B) after ''7447(f)(4)''.

[(8) Section 7448(n) is amended by inserting ''his years of service pursuant to any appointment under section 7443A,'' after ''of the Tax Court,''.

[(9) Section 3121(b)(5)(E) is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

[(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

[SEC. 320. RETIREMENT AND ANNUITY PROGRAM.

[(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

[''SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

[''(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

[''(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

[''(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

[''(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

[''(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

[''(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

[''(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

[''(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

[''(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

[''(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

[''(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

[''(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

[''(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

[''(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

[''(C) retired pay under section 7447, or

[''(D) retired pay under section 7296 of title 38, United States Code.

[''(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

[''(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

[''(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

[''(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

[''(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

[''(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

[''(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.

[''(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.

[''(i) PAYMENTS PURSUANT TO COURT ORDER.—

[''(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

[''(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

[''(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

[''(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

[''(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

[''(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

[''(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

[''(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

[''(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

[''(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

[''(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

[''(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

[''(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

[''(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

[''(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

[''(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

[''(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

[''(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

[''(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

[''(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

[''(n) LUMP-SUM PAYMENTS.—

[''(1) ELIGIBILITY.—

[''(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

[''(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

[''(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

[''(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

[''(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

[''(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

[''(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

[''(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

[''(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

[''(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

[''(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief

judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

[''(2) SPOUSES AND FORMER SPOUSES.—

[''(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

[''(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

[''(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

[''(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

[''(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

[''(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

[''(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

[''(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

[''(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

[''(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

[''(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

[''(i) if the service covered thereby aggregates 1 year or less, or

[''(ii) for the fractional part of a month in the total service.

[''(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

[''(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

[''(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

[''(3) UNFUNDED LIABILITY.—

[''(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

[''(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

[''(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

[''(ii) the balance in the Fund as of the date the unfunded liability is determined.

[''(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

[''(1) ELECTION TO CONTRIBUTE.—

[''(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 321 of the Tax Administration Good Government Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

[''(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

[''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

[''(3) SPECIAL RULES.—

[''(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

[''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

[''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

[''(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 321 of the Tax Administration Good Government Act,

[''(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 321 of the Tax Administration Good Government Act, or

[''(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 321 of the Tax Administration Good Government Act.

[''(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 321 of the Tax Administration Good Government Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

[''(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

[''(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

[''(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

[(b) CONFORMING AMENDMENT.—The table of section for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

[''Sec. 7443B. Retirement for magistrate judges of the Tax Court.''.

[SEC. 321. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

[(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

[(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

[(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

[(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

[(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

[(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act,

in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

[(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

[(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

[(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

[(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code.

Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

[SEC. 322. PROVISIONS FOR RECALL.

[(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

["SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

["(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

["(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

["(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

["(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

["(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.''.

[(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

["Sec. 7443C. Recall of magistrate judges of the Tax Court.''.

[SEC. 323. EFFECTIVE DATE.

[Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

[TITLE IV—CONFIDENTIALITY AND DISCLOSURE

[SEC. 401. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

[Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking ''or'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', or'', and by inserting after paragraph (5) the following:

["(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.''.

[SEC. 402. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

[(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking ''in writing'' the first place it appears.

[(b) ELIMINATION OF REPORTING REQUIREMENT.—Section 7803(d)(1) (relating to annual reporting) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively.

[(c) EFFECTIVE DATES.—

[(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to requests made after the date of the enactment of this Act.

[(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to reports made after the date of the enactment of this Act.

[SEC. 403. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

[(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

[(1) by striking ''TREASURY.—Returns and return information'' and inserting ''TREASURY.—

["(A) IN GENERAL.—Returns and return information'', and

[(2) by adding at the end the following new subparagraph:

["(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return or return information of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return or return information of such representative on a basis other than by reason of such relationship.''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act.

[SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFYING NUMBER WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

[(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting ''(other than the taxpayer's identifying number)'' after ''Return information''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

[SEC. 405. COMPLIANCE BY CONTRACTORS AND OTHER AGENTS WITH CONFIDENTIALITY SAFEGUARDS.

[(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

["(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

["(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

["(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor or other agent to determine compliance with such requirements,

["(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

["(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.''.

[(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

[(c) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2003.

[(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2004.

[SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

[(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended—

[(1) by striking ''TAXPAYER.—The Secretary'' and inserting ''TAXPAYER.—

["(1) IN GENERAL.—The Secretary'', and

[(2) by adding at the end the following new paragraphs:

["(2) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—The return of any taxpayer, or return information with respect to such taxpayer, disclosed to a person or persons under paragraph (1) for a purpose specified in

writing, electronically, or orally may be disclosed or used by such person or persons only for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified and shall not be disclosed or used for any other purpose.

[''(3) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for written requests and consents which shall—

[''(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

[''(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

[''(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.

[''(4) CROSS REFERENCE.—

["For provision providing for civil damages for violation of paragraph (2), see section 7431(i).".

[(b) CIVIL DAMAGES.—Section 7431 (relating to civil damages for unauthorized inspection or disclosure of returns and return information) is amended by adding at the end the following new subsection:

[''(i) DISCLOSURE OR USE OF RETURNS AND RETURN INFORMATION OBTAINED UNDER SUBSECTION 6103(c).—Disclosure or use of returns or return information obtained under section 6103(c) other than for—

[''(1) the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified in writing, electronically, or orally, or

[''(2) subject to the safeguards set forth in section 6103, for purposes permitted under section 6103,

shall be treated as a violation of section 6103(a).''.

[(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

[(1) evaluate (on the basis of random sampling) whether—

[(A) the amendment made by subsection (a) is achieving the purposes of this section;

[(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

[(C) the sanctions for violations of such requirements are adequate; and

[(2) include such recommendations that the Secretary of the Treasury considers necessary or appropriate to better achieve the purposes of this section.

[(d) SUNSET OF EXISTING CONSENTS.—Notwithstanding any other provision of law, any request for or consent to disclose any return or return information under section 6103(c) of the Internal Revenue Code of 1986 made before the date of the enactment of this Act shall remain in effect until the earlier of the date such request or consent is otherwise terminated or the date which is 3 taxable years after such date of enactment.

[(e) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

[SEC. 407. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE.

[(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: ''The Secretary shall also notify such taxpayer if the Internal Revenue Service or, upon notice to the Secretary by a Federal or State agency, if such Federal or State agency, proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination.''.

[(b) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—Section 7431, as amended by this Act, is amended by adding at the end the following new subsection:

[''(j) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—A judgment for damages shall not be awarded under subsection (c) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.''.

[(c) PAYMENT AUTHORITY CLARIFIED.—

[(1) IN GENERAL.—Section 7431, as amended by subsection (b), is amended by adding at the end the following new subsection:

[''(k) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.''.

[(2) ANNUAL REPORTS OF PAYMENTS.—The Secretary of the Treasury shall annually report to the Committee of Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding payments made from the United States Judgment Fund under section 7431(k) of the Internal Revenue Code of 1986.

[(d) BURDEN OF PROOF FOR GOOD FAITH EXCEPTION RESTS WITH SECRETARY.—Section 7431(b) (relating to exceptions) is amended by adding at the end the following new flush sentence:

[''In any proceeding involving the issue of the existence of good faith, the burden of proof with respect to such issue shall be on the Secretary.''.

[(e) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by this Act, is amended by adding at the end the following new paragraph:

[''(10) REPORT ON WILLFUL UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the willful unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

[''(A) administrative investigations,

[''(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

[''(C) criminal prosecutions.''.

[(c) EFFECTIVE DATES.—

[(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

[(2) EXHAUSTION OF REMEDIES AND BURDEN OF PROOF.—The amendments made by subsections (b) and (d) shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

[(3) PAYMENT AUTHORITY.—The amendment made by subsection (c)(1) shall take effect on the date of the enactment of this Act.

[(4) REPORTS.—The amendment made by subsection (e) shall apply to calendar years ending after the date of the enactment of this Act.

[SEC. 408. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

[(a) IN GENERAL.—Section 6103(i)(3)(B)(i) (relating to danger of death or physical injury) is amended by striking ''or State law enforcement agency'' and inserting '', State, or local law enforcement agency''.

[(b) CONFORMING AMENDMENTS.—Section 6103(p)(4) is amended—

[(1) by striking ''(i)(3)(B)(i) or (7)(A)(ii)'' and inserting ''(i)(7)(A)(ii)'', and

[(2) by striking '', (i)(3)(B)(i),''.

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

[SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

[(a) IN GENERAL.—Section 6103(m)(1) (relating to tax refunds) is amended by striking ''taxpayer identity information to the press and other media'' and by inserting ''a person's name and the city, State, and zip code of the person's mailing address to the press, other media, and through any other means of mass communication,''.

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

[SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

[(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

[''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

[''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

[''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

[''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

[''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

[''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

[''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

[''(i) upon written request by an appropriate State officer, and

[''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

[''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

[''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written

request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

[''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

[''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

[''(6) DEFINITIONS.—For purposes of this subsection—

[''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

[''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

[''(i) the State attorney general,

[''(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

[''(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

[(b) CONFORMING AMENDMENTS.—

[(1) Subsection (a) of section 6103 is amended—

[(A) by inserting ''or any appropriate State officer who has or had access to returns or return information under section 6104(c)'' after ''this section'' in paragraph (2), and

[(B) by striking ''or subsection (n)'' in paragraph (3) and inserting ''subsection (n), or section 6104(c)''.

[(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''and section 6104(c)'' after ''section'' in the first sentence.

[(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18) or any appropriate State officer (as defined in section 6104(c))''.

[(4) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS''.

[(5) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

[(6) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

[(7) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6104(c))'' after ''6103''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

[SEC. 411. TREATMENT OF PUBLIC RECORDS.

[(a) IN GENERAL.—Section 6103(b) (relating to definitions) is amended by adding at the end the following new paragraph:

[''(12) TREATMENT OF PUBLIC RECORDS.—Returns and return information shall not be subject to subsection (a) if disclosed—

[''(A) in the course of any judicial or administrative proceeding or pursuant to tax administration activities, and

[''(B) properly made part of the public record.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect before, on, and after the date of the enactment of this Act.

[SEC. 412. INVESTIGATIVE DISCLOSURES.

[(a) IN GENERAL.—Section 6103 (confidentiality and disclosure of returns and return information) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

[''(q) INVESTIGATIVE DISCLOSURES.—Nothing in this section may be construed to prohibit investigative agents of the Internal Revenue Service from identifying themselves, their organizational affiliation, and the criminal nature of an investigation when contacting third parties in writing or in person.''.

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

[SEC. 413. TIN MATCHING.

[(a) IN GENERAL.—Section 6103(k) (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following new paragraph:

[''(10) TIN MATCHING.—The Secretary may disclose to any person required to provide a taxpayer identifying number (as described in section 6109) to the Secretary whether such information matches records maintained by the Secretary.''.

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

[SEC. 414. FORM 8300 DISCLOSURES.

[(a) IN GENERAL.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''(15),'' both places it appears.

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

[SEC. 415. TECHNICAL AMENDMENT.

[(a) IN GENERAL.—Section 6103(i)(7)(A) (relating to disclosure to law enforcement agencies) is amended by adding at the end the following new clause:

[''(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.''.

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

[TITLE V—SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS

[SEC. 501. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.

[(a) IN GENERAL.—

[(1) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—Paragraph (7) of section 1(f) is amended to read as follows:

[''(7) SPECIAL RULE FOR CERTAIN BRACKETS.—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate bracket begins shall be determined under paragraph (3) by substituting '1993' for '1992'.''.

[(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—Paragraph (2) of section 1(h) is amended by striking ''In the case of any taxable year beginning after December 31, 2000, the'' and inserting ''The''.

[(3) CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.—Section 29 is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

[(4) EARNED INCOME CREDIT.—Paragraph (1) of section 32(b) is amended—

[(A) by striking subparagraphs (B) and (C), and

[(B) in subparagraph (A) by striking ''(A) IN GENERAL.—In the case of taxable years beginning after 1995'' and moving the table 2 ems to the left.

[(5) GENERAL BUSINESS CREDITS.—Subsection (d) of section 38 is amended by striking paragraph (3).

[(6) CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Subsection (d) of section 39 is amended by striking paragraphs (1) through (8) and by redesignating paragraphs (9) and (10) as paragraphs (1) and (2), respectively.

[(7) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—Clause (ii) of section 56(g)(4)(F) is amended by striking ''In the case of any taxable year beginning after December 31, 1992, clause'' and inserting ''Clause''.

[(8) ITEMS OF TAX PREFERENCE; DEPLETION.—Paragraph (1) of section 57(a) is amended by striking ''Effective with respect to taxable years beginning after December 31, 1992, this'' and inserting ''This''.

[(9) INTANGIBLE DRILLING COSTS.—

[(A) Clause (i) of section 57(a)(2)(E) is amended by striking ''In the case of any taxable year beginning after December 31, 1992, this'' and inserting ''This''.

[(B) Clause (ii) of section 57(a)(2)(E) is amended by striking ''(30 percent in the case of taxable years beginning in 1993)''.

[(10) ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.—Section 72 is amended—

[(A) in subsection (c)(4) by striking ''; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954'', and

[(B) in subsection (g)(3) by striking ''January 1, 1954, or'' and '', whichever is later''.

[(11) ACCIDENT AND HEALTH PLANS.—Section 105(f) is amended by striking ''or (d)''.

[(12) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c)(1) is amended by striking ''Effective on and after January 1, 1997, gross'' and inserting ''Gross''.

[(13) CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES.—Subsection (c) of section 112 is amended—

[(A) by striking ''(after June 24, 1950)'' in paragraph (2), and

[(B) striking ''such zone;'' and all that follows in paragraph (3) and inserting ''such zone.''.

[(14) PRINCIPAL RESIDENCE.—Section 121(b)(3) is amended—

[(A) by striking subparagraph (B); and

[(B) in subparagraph (A) by striking ''(A) IN GENERAL.—'' and moving the text 2 ems to the left.

[(15) CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY.—Section 122(b)(1) is amended by striking ''after December 31, 1965,''.

[(16) GREAT PLAINS CONSERVATION PROGRAM.—Section 126(a) is amended by striking

paragraph (6) and by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

[(17) MORTGAGE REVENUE BONDS FOR RESIDENCES IN FEDERAL DISASTER AREAS.—Section 143(k) is amended by striking paragraph (11).

[(18) INTERIM AUTHORITY FOR GOVERNOR.—

[(A) Section 146(e) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

[(B) Section 42(h)(3)(F) is amended by striking ''(other than paragraph (2)(B) thereof)''.

[(19) TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAW.—Section 162(g) is amended by striking the last sentence.

[(20) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—Paragraph (4) of section 162(h) is amended by striking ''For taxable years beginning after December 31, 1980, this'' and inserting ''This''.

[(21) INTEREST.—

[(A) Section 163 is amended by striking paragraph (6) of subsection (d) and paragraph (5) (relating to phase-in of limitation) of subsection (h).

[(B) Section 56(b)(1)(C) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively.

[(22) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—Section 170 is amended by striking subsection (k).

[(23) AMORTIZABLE BOND PREMIUM.—Subparagraph (B) of section 171(b)(1) is amended to read as follows:

[''(B)(i) in the case of a bond described in subsection (a)(2), with reference to the amount payable on maturity or earlier call date, and

[''(ii) in the case of a bond described in subsection (a)(1), with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period of earlier call date, with reference to the amount payable on earlier call date), and''.

[(24) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

[(A) Section 172 is amended—

[(i) by striking subparagraph (D) of subsection (b)(1) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively,

[(ii) by striking subsection (g), and

[(iii) by striking subparagraph (F) of subsection (h)(2).

[(B) Section 172(h)(4) is amended by striking ''subsection (b)(1)(E)'' each place it appears and inserting ''subsection (b)(1)(D)''.

[(C) Section 172(i)(3) is amended by striking ''subsection (b)(1)(G)'' each place it appears and inserting ''subsection (b)(1)(F)''.

[(D) Section 172(j) is amended by striking ''subsection (b)(1)(H)'' each place it appears and inserting ''subsection (b)(1)(G)''.

[(E) Section 172, as amended by subparagraphs (A) through (D) of this paragraph, is amended—

[(i) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively,

[(ii) by striking ''subsection (h)'' each place it appears and inserting ''subsection (g)'', and

[(iii) by striking ''subsection (i)'' each place it appears and inserting ''subsection (h)''.

[(25) RESEARCH AND EXPERIMENTAL EXPENDITURES.—Subparagraph (A) of section 174(a)(2) is amended to read as follows:

[''(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (1) are paid or incurred.''.

[(26) AMORTIZATION OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—Paragraph (2) of section 174(b)(2) is amended by striking ''beginning after December 31, 1953''.

[(27) SOIL AND WATER CONSERVATION EXPENDITURES.—Paragraph (1) of section 175(d) is amended to read as follows:

[''(1) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year for which expenditures described in subsection (a) are paid or incurred.''.

[(28) ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Section 183(e)(1) is amended by striking the last sentence.

[(29) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK; AND DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—

[(A) Sections 244 and 247 are hereby repealed and the table of sections for part VIII of subchapter B of chapter 1 is amended by striking the items relating to sections 244 and 247.

[(B) Paragraph (5) of section 172(d) is amended to read as follows:

[''(5) COMPUTATION OF DEDUCTION FOR DIVIDENDS RECEIVED.—The deductions allowed by section 243 (relating to dividends received by corporations) and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).''.

[(C) Paragraph (1) of section 243(c) is amended to read as follows:

[''(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, subsection (a)(1) shall be applied by substituting '80 percent' for '70 percent'.''.

[(D) Section 243(d) is amended by striking paragraph (4).

[(E) Section 246 is amended—

[(i) by striking '', 244,'' in subsection (a)(1),

[(ii) in subsection (b)(1)—

[(I) by striking ''sections 243(a)(1), and 244(a),'' the first place it appears and inserting ''section 243(a)(1),'',

[(II) by striking ''244(a),'' the second place it appears therein, and

[(III) by striking ''subsection (a) or (b) of section 245, and 247,'' and inserting ''and subsection (a) or (b) of section 245,'', and

[(iii) by striking '', 244,'' in subsection (c)(1).

[(F) Section 246A is amended by striking '', 244,'' both places it appears in subsections (a) and (e).

[(G) Sections 263(g)(2)(B)(iii), 277(a), 301(e)(2), 469(e)(4), 512(a)(3)(A), subparagraphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii), 832(b)(5), 833(b)(3)(E), 1059(b)(2)(B), and 1244(c)(2)(C) are each amended by striking '', 244,'' each place it appears.

[(H) Section 805(a)(4)(B) is amended by striking '', 244(a),'' each place it appears.

[(I) Section 810(c)(2)(B) is amended by striking ''244 (relating to dividends on certain preferred stock of public utilities),''.

[(30) ORGANIZATION EXPENSES.—Section 248(c) is amended by striking ''beginning after December 31, 1953,'' and by striking the last sentence.

[(31) BOND REPURCHASE PREMIUM.—Section 249(b)(1) is amended by striking '', in the case of bonds or other evidences of indebtedness issued after February 28, 1913,''.

[(32) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY DISALLOWED.—Section 267(d) is amended by striking ''(or by reason of section 24(b) of the Internal Revenue Code of 1939)'' in paragraph (1), by striking ''after December 31, 1953,'' in paragraph (2), by striking the second sentence, and by striking ''or by reason of section 118 of the Internal Revenue Code of 1939'' in the last sentence.

[(33) ACQUISITIONS MADE TO EVADE OR AVOID INCOME TAX.—Paragraphs (1) and (2) of section 269(a) are each amended by striking ''or acquired on or after October 8, 1940,''.

[(34) INTEREST ON INDEBTEDNESS INCURRED BY CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.—Section 279 is amended—

[(A) by striking ''after December 31, 1967,'' in subsection (a)(2),

[(B) by striking ''after October 9, 1969,'' in subsection (b),

[(C) by striking ''after October 9, 1969, and'' in subsection (d)(5), and

[(D) by striking subsection (i) and by redesignating subsection (j) as subsection (i).

[(35) SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.—Paragraph (4) of section 291(a) is amended by striking ''In the case of taxable years beginning after December 31, 1984, section'' and inserting ''Section''.

[(36) QUALIFICATIONS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Section 409 is amended by striking subsections (a), (g), and (q).

[(37) FUNDING STANDARDS.—Section 412(m)(4) is amended—

[(A) by striking ''the applicable percentage'' in subparagraph (A) and inserting ''25 percent'', and

[(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

[(38) RETIREE HEALTH ACCOUNTS.—Section 420 is amended—

[(A) by striking paragraph (4) in subsection (b) and by redesignating paragraph (5) as paragraph (4), and

[(B) by amending paragraph (2) of subsection (c) to read as follows:

[''(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).''.

[(39) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) is amended by striking ''after December 31, 1963,''.

[(40) LIMITATION ON DEDUCTIONS FOR CERTAIN FARMING.—Section 464 is amended—

[(A) by striking ''any farming syndicate (as defined in subsection (c))'' both places it appears in subsections (a) and (b) and inserting ''any taxpayer to whom subsection (f) applies'', and

[(B) by striking subsection (g).

[(41) DEDUCTIONS LIMITED TO AMOUNT AT RISK.—

[(A) Paragraph (3) of section 465(c) is amended by striking ''In the case of taxable years beginning after December 31, 1978, this'' and inserting ''This''.

[(B) Paragraph (2) of section 465(e)(2)(A) is amended by striking ''beginning after December 31, 1978''.

[(42) NUCLEAR DECOMMISSIONING COSTS.—Section 468A(e)(2) is amended—

[(A) by striking ''at the rate set forth in subparagraph (B)'' in subparagraph (A) and inserting ''at a rate of 20 percent'', and

[(B) by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

[(43) PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.—

[(A) Section 469 is amended by striking subsection (m).

[(B) Subsection (b) of section 58 is amended by adding ''and'' at the end of paragraph (1),

by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

[(44) ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF ACCOUNTING.—Section 481(b)(3) is amended by striking subparagraph (C).

[(45) EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.—Section 501 is amended by striking subsection (p).

[(46) REQUIREMENTS FOR EXEMPTION.—

[(A) Section 503(a)(1) is amended to read as follows:

[''(1) GENERAL RULE.—An organization described in paragraph (17) or (18) of section 501(a) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction.''.

[(B) Paragraph (2) of section 503(a) is amended by striking ''described in section 501(c)(17) or (18) or paragraph (a)(1)(B)'' and inserting ''described in paragraph (1)''.

[(C) Subsection (c) of section 503 is amended by striking ''described in section 501(c)(17) or (18) or subsection (a)(1)(B)'' and inserting ''described in subsection (a)(1)''.

[(47) AMOUNTS RECEIVED BY SURVIVING ANNUITANT UNDER JOINT AND SURVIVOR ANNUITY CONTRACT.—Subparagraph (A) of section 691(d)(1) is amended by striking ''after December 31, 1953, and''.

[(48) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—Section 692(a)(1) is amended by striking ''after June 24, 1950''.

[(49) INSURANCE COMPANY TAXABLE INCOME.—

[(A) Section 832(e) is amended by striking ''of taxable years beginning after December 31, 1966,''.

[(B) Section 832(e)(6) is amended by striking ''In the case of any taxable year beginning after December 31, 1970, the'' and by inserting ''The''.

[(50) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—Subparagraph (B) of section 871(a)(1) is amended to read as follows:

[''(B) gains described in subsection (b) or (c) of section 631,''.

[(51) PROPERTY ON WHICH LESSEE HAS MADE IMPROVEMENTS.—Section 1019 is amended by striking the last sentence.

[(52) INVOLUNTARY CONVERSION.—Section 1033 is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).

[(53) PROPERTY ACQUIRED DURING AFFILIATION.—Section 1051 is repealed and the table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1051.

[(54) HOLDING PERIOD OF PROPERTY.—

[(A) Paragraph (5) of section 1223 is amended by striking ''(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)''.

[(B) Paragraph (7) of section 1223 is amended by striking the last sentence.

[(C) Paragraph (9) of section 1223 is repealed.

[(55) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS.—Subparagraph (A) of section 1231(c)(2) is amended by striking ''beginning after December 31, 1981''.

[(56) SALE OR EXCHANGE OF PATENTS.—Section 1235 is amended—

[(A) by striking subsection (c) and by redesignating subsections (d) and (e) as (c) and (d), respectively, and

[(B) by striking ''(d)'' in subsection (b) and inserting ''(c)''.

[(57) DEALERS IN SECURITIES.—Subsection (b) of section 1236 is amended by striking ''after November 19, 1951,''.

[(58) SALE OF PATENTS.—Subsection (a) of section 1249 is amended by striking ''after December 31, 1962,''.

[(59) GAIN FROM DISPOSITION OF FARM LAND.—Paragraph (1) of section 1252(a) is amended by striking ''after December 31, 1969,'' both places it appears.

[(60) TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.—Subsection (c) of section 1271 is amended to read as follows:

[''(c) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

[''(1) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

[''(A) an amount equal to the original issue discount, or

[''(B) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

[''(2) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

[''(3) CROSS REFERENCE.—

''For current inclusion of original issue discount, see section 1272.''.

[(61) AMOUNT AND METHOD OF ADJUSTMENT.—Section 1314 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

[(62) ELECTION; REVOCATION; TERMINATION.—Clause (iii) of section 1362(d)(3) is amended by striking ''unless'' and all that follows and inserting ''unless the corporation was an S corporation for such taxable year.''.

[(63) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 is amended by striking ''the following percent'' and all that follows and inserting ''12.4 percent of the amount of the self-employment income for such taxable year.''.

[(64) HOSPITAL INSURANCE.—Subsection (b) of section 1401 is amended by striking ''the following percent'' and all that follows and inserting ''2.9 percent of the amount of the self-employment income for such taxable year.''.

[(65) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Paragraph (3) of section 1402(e) is amended by striking ''whichever of the following dates is later: (A)'' and by striking ''; or (B)'' and all that follows and by inserting a period.

[(66) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—The first sentence of subsection (b) of section 1441 and the first sentence of paragraph (5) of section 1441(c) are each amended by striking ''gains subject to tax'' and all that follows through ''October 4, 1966'' and inserting ''and gains subject to tax under section 871(a)(1)(D)''.

[(67) AFFILIATED GROUP DEFINED.—Subparagraph (A) of section 1504(a)(3) is amended by striking ''for a taxable year which includes any period after December 31, 1984'' in clause (i) and by striking ''in a taxable year beginning after December 31, 1984'' in clause (ii).

[(68) DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.—

[(A) Subsection (a) of section 1551 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

[(B) Section 1551(b) is amended—

[(i) by striking ''or (2)'' in paragraph (1), and

[(ii) by striking ''(a)(3)'' in paragraph (2) and inserting ''(a)(2)''.

[(69) DEFINITION OF WAGES.—Section 3121(b) is amended by striking paragraph (17).

[(70) CREDITS AGAINST TAX.—

[(A) Paragraph (4) of section 3302(f) is amended by striking ''subsection—'' and all that follows through ''(A) IN GENERAL.—'', by striking subparagraph (B), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by moving the text of such subparagraphs (as so redesignated) 2 ems to the left.

[(B) Paragraph (5) of section 3302(f) is amended by striking subparagraphs (D) and by redesignating subparagraph (E) as subparagraph (D).

[(71) DOMESTIC SERVICE EMPLOYMENT TAXES.—Section 3510(b) is amended by striking paragraph (4).

[(72) TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Section 4042(b)(2)(A) is amended to read as follows:

[''(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.''.

[(73) TRANSPORTATION BY AIR.—Section 4261(e) is amended—

[(A) in paragraph (1) by striking subparagraph (C), and

[(B) by striking paragraph (5).

[(74) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942 is amended—

[(A) by striking subsection (f)(2)(D),

[(B) in subsection (g)(2)(A) by striking ''For all taxable years beginning on or after January 1, 1975, subject'' and inserting ''Subject'',

[(C) in subsection (g) by striking paragraph (4), and

[(D) in subsection (i)(2) by striking ''beginning after December 31, 1969, and''.

[(75) TAXES ON TAXABLE EXPENDITURES.—Section 4945(f) is amended by striking ''(excluding therefrom any preceding taxable year which begins before January 1, 1970)''.

[(76) RETURNS.—Subsection (a) of section 6039D is amended by striking ''beginning after December 31, 1984,''.

[(77) INFORMATION RETURNS.—Subsection (c) of section 6060 is amended by striking ''year'' and all that follows and inserting ''year.''.

[(78) ABATEMENTS.—Section 6404(f) is amended by striking paragraph (3).

[(79) FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.—Clause (i) of section 6655(g)(4)(A) is amended by striking ''(or the corresponding provisions of prior law)''.

[(80) RETIREMENT.—Section 7447(i)(3)(B)(ii) is amended by striking ''at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter'', and inserting ''at 3 percent per annum''.

[(81) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF JUDGES.—

[(A) Paragraph (2) of section 7448(a) is amended by striking ''or under section 1106 of the Internal Revenue Code of 1939'' and by striking ''or pursuant to section 1106(d) of the Internal Revenue Code of 1939''.

[(B) Subsection (g) of section 7448 is amended by striking ''or other than pursuant to section 1106 of the Internal Revenue Code of 1939''.

[(C) Subsection (j)(1) and (j)(2) of section 7448 are each amended by striking ''at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter'' and inserting ''at 3 percent per annum''.

[(82) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (4) of section 7518(g) is amended by striking ''any nonqualified withdrawal'' and all that follows through ''shall be determined'' and inserting ''any

nonqualified withdrawal shall be determined''.

[(83) VALUATION TABLES.—Paragraph (3) of section 7520(c) is amended—

[(A) by striking ''Not later than December 31, 1989, the'' and inserting ''The'', and

[(B) by striking ''thereafter'' in the last sentence thereof.

[(84) ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.—Section 7651 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

[(85) DEFINITION OF EMPLOYEE.—(A) Section 7701(a)(20) is amended by striking ''chapter 21'' and all that follows and inserting ''chapter 21.''.

[(b) EFFECTIVE DATE.—

[(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of enactment of this Act.

[(2) SAVINGS PROVISION.—If—

[(A) any provision amended or repealed by subsection (a) applied to—

[(i) any transaction occurring before the date of the enactment of this Act,

[(ii) any property acquired before such date of enactment, or

[(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

[(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment,

nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.]

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Administration Good Government Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

Sec. 101. Waiver of user fee for installment agreements using automated withdrawals.
Sec. 102. Authorization for IRS to enter into installment agreements that provide for partial payment.
Sec. 103. Termination of installment agreements.
Sec. 104. Office of Chief Counsel review of offers-in-compromise.
Sec. 105. Authorization for IRS to require increased electronic filing of returns prepared by paid return preparers.
Sec. 106. Threshold on tolling of statute of limitations during review by Taxpayer Advocate Service.
Sec. 107. Increase in penalty for bad checks and money orders.
Sec. 108. Extension of time limit for contesting IRS levy.
Sec. 109. Individuals held harmless on improper levy on individual retirement plan.
Sec. 110. Authorization for Financial Management Service retention of transaction fees from levied amounts.
Sec. 111. Elimination of restriction on offsetting refunds from former residents.

Subtitle B—Processing and Personnel

Sec. 121. Information regarding statute of limitations.
Sec. 122. Annual report on IRS performance measures.
Sec. 123. Disclosure of tax information to facilitate combined employment tax reporting.
Sec. 124. Extension of declaratory judgment procedures to non-501(c)(3) tax-exempt organizations.
Sec. 125. Amendment to Treasury auction reforms.
Sec. 126. Revisions relating to termination of employment of IRS employees for misconduct.
Sec. 127. Expansion of IRS Oversight Board Authority.
Sec. 128. IRS Oversight Board approval of use of critical pay authority.
Sec. 129. Low-income taxpayer clinics.
Sec. 130. Taxpayer access to financial institutions.
Sec. 131. Enrolled agents.
Sec. 132. Establishment of disaster response team.
Sec. 133. Study of accelerated tax refunds.
Sec. 134. Study on clarifying recordkeeping responsibilities.
Sec. 135. Streamline reporting process for National Taxpayer Advocate.
Sec. 136. IRS Free File program.
Sec. 137. Modification of TIGTA reporting requirements.
Sec. 138. Study of IRS accounts receivable.
Sec. 139. Electronic Commerce Advisory Group.
Sec. 140. Study on modifications to schedules L and M–1.
Sec. 141. Regulation of Federal income tax return preparers and refund anticipation loan providers.

Subtitle C—Other Provisions

Sec. 151. Penalty for failure to report interests in foreign financial accounts.
Sec. 152. Repeal of application of below-market loan rules to amounts paid to certain continuing care facilities.

TITLE II—REFORM OF PENALTY AND INTEREST

Sec. 201. Individual estimated tax.
Sec. 202. Corporate estimated tax.
Sec. 203. Increase in large corporation threshold for estimated tax payments.
Sec. 204. Abatement of interest.
Sec. 205. Deposits made to suspend running of interest on potential underpayments.
Sec. 206. Freeze of provisions regarding suspension of interest where Secretary fails to contact taxpayer.
Sec. 207. Clarification of application of Federal tax deposit penalty.
Sec. 208. Frivolous tax returns and submissions.
Sec. 209. Extension of notice requirements with respect to interest and penalty calculations.
Sec. 210. Expansion of interest netting.

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

Sec. 301. Jurisdiction of Tax Court over collection due process cases.
Sec. 302. Authority for special trial judges to hear and decide certain employment status cases.
Sec. 303. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.
Sec. 304. Tax Court filing fee in all cases commenced by filing petition.
Sec. 305. Amendments to appoint employees.
Sec. 306. Expanded use of Tax Court practice fee for pro se taxpayers.

Subtitle B—Tax Court Pension and Compensation

Sec. 311. Annuities for survivors of Tax Court judges who are assassinated.
Sec. 312. Cost-of-living adjustments for Tax Court judicial survivor annuities.
Sec. 313. Life insurance coverage for Tax Court judges.
Sec. 314. Cost of life insurance coverage for Tax Court judges age 65 or over.
Sec. 315. Modification of timing of lump-sum payment of judges' accrued annual leave.
Sec. 316. Participation of Tax Court judges in the Thrift Savings Plan.
Sec. 317. Exemption of teaching compensation of retired judges from limitation on outside earned income.
Sec. 318. General provisions relating to magistrate judges of the Tax Court.
Sec. 319. Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court.
Sec. 320. Retirement and annuity program.
Sec. 321. Incumbent magistrate judges of the Tax Court.
Sec. 322. Provisions for recall.
Sec. 323. Effective date.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

Sec. 401. Clarification of definition of church tax inquiry.
Sec. 402. Collection activities with respect to joint return disclosable to either spouse based on oral request.
Sec. 403. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 404. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
Sec. 405. Compliance by contractors with confidentiality safeguards.
Sec. 406. Higher standards for requests for and consents to disclosure.
Sec. 407. Civil damages for unauthorized disclosure or inspection.
Sec. 408. Expansion of disclosure in emergency circumstances.
Sec. 409. Disclosure of taxpayer identity for tax refund purposes.
Sec. 410. Disclosure to State officials of proposed actions related to section 501(c) organizations.
Sec. 411. Treatment of public records.
Sec. 412. Employee identity disclosures.
Sec. 413. Taxpayer identification number matching.
Sec. 414. Form 8300 disclosures.
Sec. 415. Disclosure to law enforcement agencies regarding terrorist activities.

TITLE V—SIMPLIFICATION

Subtitle A—Uniform Definition of Child

Sec. 501. Uniform definition of child, etc.
Sec. 502. Modifications of definition of head of household.
Sec. 503. Modifications of dependent care credit.
Sec. 504. Modifications of child tax credit.
Sec. 505. Modifications of earned income credit.
Sec. 506. Modifications of deduction for personal exemption for dependents.
Sec. 507. Technical and conforming amendments.
Sec. 508. Effective date.

Subtitle B—Simplification Through Elimination of Inoperative Provisions

Sec. 511. Simplification through elimination of inoperative provisions.

TITLE VI—REVENUE PROVISIONS

Subtitle A—Provisions Designed to Curtail Tax Shelters

Sec. 601. Penalty for failing to disclose reportable transaction.

Sec. 602. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 603. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 604. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 605. Disclosure of reportable transactions.
Sec. 606. Modifications to penalty for failure to register tax shelters.
Sec. 607. Modification of penalty for failure to maintain lists of investors.
Sec. 608. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 609. Understatement of taxpayer's liability by income tax return preparer.
Sec. 610. Regulation of individuals practicing before the Department of Treasury.
Sec. 611. Penalty on promoters of tax shelters.
Sec. 612. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 613. Denial of deduction for interest on underpayments attributable to tax-motivated transactions.
Sec. 614. Authorization of appropriations for tax law enforcement.

PART II—OTHER CORPORATE GOVERNANCE PROVISIONS

Sec. 621. Affirmation of consolidated return regulation authority.
Sec. 622. Declaration by chief executive officer relating to Federal annual income tax return of a corporation.
Sec. 623. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 624. Disallowance of deduction for punitive damages.
Sec. 625. Increase in criminal monetary penalty for individuals to the amount of the tax at issue.
Sec. 626. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.

PART III—EXTENSION OF IRS USER FEES

Sec. 631. Extension of IRS user fees.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

SEC. 101. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 102. AUTHORIZATION FOR IRS TO ENTER INTO INSTALLMENT AGREEMENTS THAT PROVIDE FOR PARTIAL PAYMENT.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years with the primary purpose of determining whether the financial condition of the taxpayer has significantly changed so as to warrant an increase in the value of the payments being made.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 103. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—Section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking ''Whenever a compromise'' and all that follows through ''his delegate'' and inserting ''If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion''.

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 105. AUTHORIZATION FOR IRS TO REQUIRE INCREASED ELECTRONIC FILING OF RETURNS PREPARED BY PAID RETURN PREPARERS.

(a) IN GENERAL.—Section 6011(e) (relating to regulations requiring returns on magnetic media, etc.) is amended—

(1) by striking the second sentence in paragraph (1), and

(2) by striking ''250'' in paragraph (2)(A) and inserting ''5''.

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

SEC. 106. THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING REVIEW BY TAXPAYER ADVOCATE SERVICE.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after ''such application,'' the following: ''but only if the date of such decision is at least 7 days after the date of the taxpayer's application''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 107. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 108. EXTENSION OF TIME LIMIT FOR CONTESTING IRS LEVY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking ''9 months'' and inserting ''2 years''.

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking ''9 months'' and inserting ''2 years'', and

(2) in paragraph (2) by striking ''9-month'' and inserting ''2-year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 109. INDIVIDUALS HELD HARMLESS ON IMPROPER LEVY ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

''(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

''(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies and an amount is returned to the individual who is the beneficiary of such plan, the individual may deposit an amount equal to the sum of—

''(A) the amount of money returned by the Secretary on account of such levy, and

''(B) interest paid under subsection (c) on such amount of money,

into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

''(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

''(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

''(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

''(C) such deposit shall not be taken into account under section 408(d)(3)(B).

''(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for

a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

''(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2004.

SEC. 110. AUTHORIZATION FOR FINANCIAL MANAGEMENT SERVICE RETENTION OF TRANSACTION FEES FROM LEVIED AMOUNTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 111. ELIMINATION OF RESTRICTION ON OFFSETTING REFUNDS FROM FORMER RESIDENTS.

(a) IN GENERAL.—Section 6402(e) (relating to collection of past-due, legally enforceable State income tax obligations) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) CLARIFICATION OF DISCLOSURE AUTHORITY.—Section 6103(l)(10) (relating to disclosure of certain information to agencies requesting a reduction under subsection (c), (d), or (e) or section 6402) is amended—

(1) by striking '', (d), or (e)'' each place it appears and inserting ''or (d)'', and

(2) by striking '', (d), OR (e)'' in the heading and inserting ''OR (d)''.

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

Subtitle B—Processing and Personnel

SEC. 121. INFORMATION REGARDING STATUTE OF LIMITATIONS.

The Secretary of the Treasury or the Secretary's delegate shall—

(1) as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and

(2) for taxable years beginning after December 31, 2004, revise any instructions booklet accompanying a general income tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds, and the consequences under such section 6511 of the failure to file a return of tax.

SEC. 122. ANNUAL REPORT ON IRS PERFORMANCE MEASURES.

(a) IN GENERAL.—Section 7803(a) (relating to Commissioner of Internal Revenue) is amended by adding at the end the following new paragraph:

''(4) ANNUAL REPORT ON IRS PERFORMANCE MEASURES.—Not later than December 31 of each calendar year, the Commissioner shall report to Congress and the Oversight Board on performance goals and projections for the 5-fiscal-year period beginning with the fiscal year ending in such calendar year against which to measure the performance of the Internal Revenue Service in the areas of the public rating of the Internal Revenue Service, customer service, compliance, and management initiatives. The report shall include the long-term performance goal for each measurement and a brief narrative explaining how the Commissioner plans to meet each goal. For each performance goal, the report shall include comparisons between the projected performance level and actual performance level. For each performance measurement, the report shall include a volume projection for such period. If the Internal Revenue Service fails to achieve one of its goals, the report shall explain why. The report shall also include data and a narrative regarding the actual and projected level of the workload and resources of the Internal Revenue Service for such 5-year period.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports for fiscal year 2004 and thereafter.

SEC. 123. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

''(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary shall disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.''.

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

SEC. 124. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO NON-501(c)(3) TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after ''509(a))'' the following: ''or as a private operating foundation (as defined in section 4942(j)(3))''; and

(2) by amending subparagraph (C) to read as follows:

''(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or''.

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking ''United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia'' and inserting the following: ''United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2004.

SEC. 125. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon ''(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to meetings held after the date of the enactment of this Act.

SEC. 126. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF IRS EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

''SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

''(a) IN GENERAL.—Subject to subsection (c), the Commissioner shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

''(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

''(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets,

''(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative,

''(3) with respect to a taxpayer or taxpayer representative, the violation of—

''(A) any right under the Constitution of the United States, or

''(B) any civil right established under—

''(i) title VI or VII of the Civil Rights Act of 1964,

''(ii) title IX of the Education Amendments of 1972,

''(iii) the Age Discrimination in Employment Act of 1967,

''(iv) the Age Discrimination Act of 1975,

''(v) section 501 or 504 of the Rehabilitation Act of 1973, or

''(vi) title I of the Americans with Disabilities Act of 1990,

''(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative,

''(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery,

''(6) violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative,

''(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry,

''(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect,

''(9) willful understatement of Federal tax liability, unless such understatement is due to

reasonable cause and not due to willful neglect, and

''(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

''(c) DETERMINATIONS OF COMMISSIONER.—

''(1) IN GENERAL.—The Commissioner may take a personnel action other than termination for an act or omission described under subsection (b).

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in the Commissioner's sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

''(3) NO APPEAL.—Any determination of the Commissioner under this subsection may not be appealed in any administrative or judicial proceeding.

''(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

''Sec. 7804A. Termination of employment for misconduct.''.

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

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

SEC. 127. EXPANSION OF IRS OVERSIGHT BOARD AUTHORITY.

(a) APPROVAL WITH RESPECT TO SENIOR EXECUTIVES.—Section 7802(d)(3)(B) (relating to management) is amended by inserting ''and approve'' after ''review''.

(b) REPORTS.—

(1) BUDGET REQUEST.—Section 7802(d) (relating to specific responsibilities) is amended—

(A) by inserting ''with detailed analysis'' after ''budget request'' in paragraph (4)(B), and

(B) by inserting ''without any additional review or comment from the Commissioner, the Secretary, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget'' before ''to the President'' in the last sentence thereof.

(2) DATE OF SUBMISSION OF ANNUAL REPORT.—Section 7802(f)(3)(A) (relating to annual reports) is amended by striking ''The Oversight Board shall each year report'' and insert ''Not later than March 1 of each calendar year, the Oversight Board shall report''.

(c) CONTINUITY IN OFFICE.—Section 7802(b)(2) (relating to qualifications and terms) is amended by adding at the end the following new subparagraph:

''(E) CONTINUATION IN OFFICE.—Any member whose term expires shall serve until the earlier of the date on which the member's successor takes office or the date which is 1 year after the date of the expiration of the member's term.

(d) ACCESS TO HEALTH BENEFITS.—Section 7802(e) (relating to Board personnel matters) is amended by adding at the end the following new paragraph:

''(5) MEMBERS ACCESS TO FEHBP.—Each member of the Oversight Board who—

''(A) is described in subsection (b)(1)(A), or

''(B) is described in subsection (b)(1)(D) and is not otherwise a Federal officer or employee,

shall be considered an employee solely for purposes of chapter 89 of title 5, United States Code.''.

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

SEC. 128. IRS OVERSIGHT BOARD APPROVAL OF USE OF CRITICAL PAY AUTHORITY.

(a) IN GENERAL.—Section 7802(d)(3) (relating to management) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(D) review and approve the Commissioner's use of critical pay authority under section 9502 of title 5, United States Code, and streamlined critical pay authority under section 9503 of such title.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to personnel hired after the date of the enactment of this Act.

SEC. 129. LOW-INCOME TAXPAYER CLINICS.

(a) GRANTS FOR RETURN PREPARATION CLINICS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

''SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

''(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RETURN PREPARATION CLINIC.—

''(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

''(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

''(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

''(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

''(2) CLINIC.—The term 'clinic' includes—

''(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

''(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

''Sec. 7526A. Return preparation clinics for low-income taxpayers.''.

(b) GRANTS FOR TAXPAYER REPRESENTATION AND ASSISTANCE CLINICS.—

(1) INCREASE IN AUTHORIZED GRANTS.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking ''$6,000,000'' and inserting ''$10,000,000''.

(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—

(A) IN GENERAL.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

''(6) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.''.

(B) CONFORMING AMENDMENTS.—Section 7526(c)(5) is amended—

(i) by inserting ''qualified'' before ''low-income'', and

(ii) by striking the last sentence.

(3) PROMOTION OF CLINICS.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

''(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

SEC. 130. TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to award demonstration project grants (including multi-year grants) to eligible entities to provide tax preparation services and assistance in connection with establishing an account in a federally insured depository institution for individuals that currently do not have such an account.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity is eligible to receive a grant under this section if such an entity is—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code,

(B) a federally insured depository institution,

(C) an agency of a State or local government,

(D) a community development financial institution,

(E) an Indian tribal organization,

(F) an Alaska Native Corporation,

(G) a Native Hawaiian organization,

(H) a labor organization, or

(I) a partnership comprised of 1 or more of the entities described in the preceding subparagraphs.

(2) DEFINITIONS.—For purposes of this section—

(A) FEDERALLY INSURED DEPOSITORY INSTITUTION.—The term ''federally insured depository institution'' means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(B) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term ''community development financial institution'' means any organization that has been certified as such pursuant to section 1805.201 of title 12, Code of Federal Regulations.

(C) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as the term ''Native Corporation'' under section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(D) NATIVE HAWAIIAN ORGANIZATION.—The term ''Native Hawaiian organization'' means any organization that—

(i) serves and represents the interests of Native Hawaiians, and

(ii) has as a primary and stated purpose the provision of services to Native Hawaiians.

(E) LABOR ORGANIZATION.—The term ''labor organization'' means an organization—

(i) in which employees participate,

(ii) which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and

(iii) which is described in section 501(c)(5).

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A recipient of a grant under this section may not use more than 6 percent of the total amount of such grant in any fiscal year for the administrative costs of carrying out the programs funded by such grant in such fiscal year.

(e) EVALUATION AND REPORT.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, for the grant program described in this section, $10,000,000, or such additional amounts as deemed necessary, to remain available until expended.

(g) REGULATIONS.—The Secretary is authorized to promulgate regulations to implement and administer the grant program under this section.

SEC. 131. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7529. ENROLLED AGENTS.

''(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

''(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7529. Enrolled agents.''.

(c) PRIOR REGULATIONS.—The authorization to prescribe regulations under the amendments made by this section may not be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other related Federal rule or regulation issued before the date of the enactment of this Act.

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

SEC. 132. ESTABLISHMENT OF DISASTER RESPONSE TEAM.

(a) IN GENERAL.—Section 7803 (relating to Commissioner of Internal Revenue; other officials) is amended by adding at the end the following new subsection:

''(e) DISASTER RESPONSE TEAM.—

''(1) RESPONSE TO DISASTERS.—The Secretary shall—

''(A) establish as a permanent office in the national office of the Internal Revenue Service a disaster response team composed of members, who in addition to their regular responsibilities, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as defined in section 1033(h)(3)), and

''(B) respond to requests by such taxpayers for filing extensions and technical guidance expeditiously.

''(2) PERSONNEL OF DISASTER RESPONSE TEAM.—The disaster response team shall be composed of—

''(A) personnel from the Office of the Taxpayer Advocate, and

''(B) personnel from the national office of the Internal Revenue Service with expertise in individual, corporate, and small business tax matters.

''(3) COORDINATION WITH FEMA.—The disaster response team shall operate in coordination with the Director of the Federal Emergency Management Agency.

''(4) TOLL-FREE TELEPHONE NUMBER.—The Commissioner of Internal Revenue shall establish and maintain a toll-free telephone number for taxpayers to use to receive assistance from the disaster response team.

''(5) INTERNET WEBPAGE SITE.—The Commissioner of Internal Revenue shall establish and maintain a site on the Internet webpage of the Internal Revenue Service for information for taxpayers described in paragraph (1)(A).''.

(b) FEMA.—The Director of the Federal Emergency Management Agency shall work in coordination with the disaster response team established under section 7803(e) of the Internal Revenue Code of 1986 to provide timely assistance to disaster victims described in such section, including—

(1) informing the disaster response team regarding any tax-related problems or issues arising in connection with the disaster,

(2) providing the toll-free telephone number established and maintained by the Internal Revenue Service for the disaster victims in all materials provided to such victims, and

(3) providing the information described in section 7803(e)(5) of such Code on the Internet webpage of the Federal Emergency Management Agency or through a link on such webpage to the Internet webpage site of the Internal Revenue Service described in such section.

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

SEC. 133. STUDY OF ACCELERATED TAX REFUNDS.

(a) STUDY.—The Secretary of the Treasury shall study the implementation of an accelerated refund program for taxpayers who—

(1) maintain the same filing characteristics from year to year, and

(2) elect the direct deposit option for any refund under the program.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 134. STUDY ON CLARIFYING RECORD-KEEPING RESPONSIBILITIES.

(a) STUDY.—The Secretary of the Treasury shall study—

(1) the scope of the records required to be maintained by taxpayers under section 6001 of the Internal Revenue Code of 1986,

(2) the utility of requiring taxpayers to maintain all records indefinitely,

(3) such requirement given the necessity to upgrade technological storage for outdated records,

(4) the number of negotiated records retention agreements requested by taxpayers and the number entered into by the Internal Revenue Service, and

(5) proposals regarding taxpayer record-keeping.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 135. STREAMLINE REPORTING PROCESS FOR NATIONAL TAXPAYER ADVOCATE.

(a) ONE ANNUAL REPORT.—Subparagraph (B) of section 7803(c)(2) (relating to functions of Office) is amended—

(1) by striking all matter preceding subclause (I) of clause (ii) and inserting the following:

''(B) ANNUAL REPORT.—

''(i) IN GENERAL.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer of Advocate for the fiscal year beginning in such calendar year and the activities of such Office during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—'',

(2) by striking ''clause (ii)'' in clause (iv) and inserting ''clause (i)'', and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) ADDITIONAL REPORTS.—Section 7803(c)(2)(C) (relating to other responsibilities) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ''; and'', and by adding at the end the following new clause:

''(v) at the discretion of the National Taxpayer Advocate, report at any time to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on significant issues affecting taxpayer rights.''.

(c) EFFECTIVE DATES.—

(1) ANNUAL REPORTS.—The amendments made by subsection (a) shall apply to reports in calendar year 2005 and thereafter.

(2) ADDITIONAL REPORTS.—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 136. IRS FREE FILE PROGRAM.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall require that a taxpayer must provide an affirmative consent before such taxpayer may be solicited with respect to any product or service by an entity participating in the Internal Revenue Service Free File program. Any request for such consent must be prominently displayed and clearly written, in large print, on any material relating to such program.

(b) EFFECTIVE DATE.—This section shall take effect with respect to returns filed after December 31, 2004.

SEC. 137. MODIFICATION OF TIGTA REPORTING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 7803(d) (relating to additional duties of the Treasury Inspector General for Tax Administration) is amended—

(1) by striking ''ANNUAL'' in the heading and inserting ''SEMIANNUAL'',

(2) by striking ''one of the semiannual reports'' in the matter preceding subparagraph (A) and inserting ''each semiannual report'',

(3) by striking clause (ii) of subparagraph (A),

(4) by redesignating clauses (iii), (iv), and (v) of subparagraph (A) as clauses (ii), (iii), and (iv) of subparagraph (A), respectively,

(5) by striking subparagraph (B),

(6) by striking ''and'' at the end of subparagraph (F),

(7) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively, and

(8) by striking subparagraph (G) and inserting the following new subparagraphs:

''(F) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources; and

''(G) with respect to allegations of serious employee misconduct—

''(i) a summary of the status of such allegations; and

''(ii) a summary of the disposition of such allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such allegations.''.

(b) CONFORMING AMENDMENTS.—Section 7803(d) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

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

SEC. 138. STUDY OF IRS ACCOUNTS RECEIVABLE.

(a) STUDY.—The Secretary of the Treasury shall conduct a study of the provisions of the Internal Revenue Code of 1986, and the application of such provisions, regarding collection procedures to determine if impediments exist to the efficient and timely collection of tax debts. Such study shall include an examination of the accounts receivable inventory of the Internal Revenue Service.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, including the findings of the study described in subsection (a) and such legislative or administrative recommendations as the Secretary deems appropriate to increase the efficient and timely collection of tax debts.

SEC. 139. ELECTRONIC COMMERCE ADVISORY GROUP.

(a) IN GENERAL.—Section 2001(b)(2) of the Internal Revenue Service Restructuring and Reform Act of 1998 is amended by inserting '', and at least 2 representatives from the consumer advocate community'' after ''industry''.

(b) APPLICATION OF AMENDMENT.—The initial appointments in accordance with the amendment made by this section shall be made not later than the date which is 180 days after the date of the enactment of this Act.

SEC. 140. STUDY ON MODIFICATIONS TO SCHEDULES L AND M–1.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on proposals to modify tax schedules L and M–1 of Form 1120 to require the disclosure of additional information, such as the items described in subsection (b).

(b) ITEMS OF DISCLOSURE.—The items described in this subsection is as follows:

(1) The parent company names and identification numbers for both tax and book purposes.

(2) An asset reconciliation of consolidated book assets on the public financial disclosures with the consolidated tax return.

(3) Worldwide net income from public financial disclosures.

(4) The components of tax expense presently recorded in financial statement tax footnotes.

(5) The reconciliation of the book income of entities included in the consolidated financial statement with book income included in the consolidated tax return.

(6) The adjustment for book income from domestic and foreign entities excluded from financial reporting but included for tax reconciliation.

(7) The book income of United States entities included in the United States consolidated return.

(8) Taxable income due to actual or deemed dividends from foreign subsidiaries.

(9) A reconciliation which should reflect pretax book income of United States consolidated tax group plus taxable deemed or actual foreign repatriations.

(10) The differences in the reporting of income and expense between book and tax reporting, including specific reporting on pension expense, stock options, and the amortization of goodwill.

(11) Other reconciliation items in a consistent manner among all entities.

(c) PUBLIC AVAILABILITY OF SPECIFIED INFORMATION.—Not later than 1 year after the date of the enactment of this Act, the Securities and Exchange Commission and the Commissioner of Internal Revenue shall each report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on proposals to expand the public availability and clarity of information relating to book and tax differences and Federal tax liability with respect to corporations.

SEC. 141. REGULATION OF FEDERAL INCOME TAX RETURN PREPARERS AND REFUND ANTICIPATION LOAN PROVIDERS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 7530. FEDERAL INCOME TAX RETURN PREPARERS AND REFUND ANTICIPATION LOAN PROVIDERS.

''(a) REGISTRATION.—

''(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary—

''(A) to require the registration of Federal income tax return preparers and refund anticipation loan providers with the Secretary or the designee of the Secretary, and

''(B) to prohibit the payment of a refund of tax to a Federal income tax return preparer or refund anticipation loan provider that is the result of a tax return which is prepared by such preparer or provider which does not include the preparer's or provider's registration number.

''(2) NO DISCIPLINARY ACTION.—The regulations under paragraph (1) shall require that an applicant for registration must not have demonstrated any conduct that would warrant disciplinary action under part 10 of title 31, Code of Federal Regulations.

''(3) BURDEN OF REGISTRATION.—In promulgating the regulations under paragraph (1), the Secretary shall minimize the burden and cost on the registrant.

''(b) EXAMINATION.—In promulgating the regulations under subsection (a)—

''(1) IN GENERAL.—The Secretary shall develop a series of examinations designed to test the technical knowledge and competency of each applicant for registration to prepare Federal tax returns, including an examination testing knowledge of individual income tax return preparation, including the earned income tax credit under section 32.

''(2) INITIAL EXAMINATION.—The Secretary shall require that each applicant for registration pass an initial examination testing the applicant's technical knowledge and competency to prepare individual and business Federal income tax returns.

''(c) RULES OF CONDUCT.—All registrants shall be subject to rules of conduct that are consistent with the rules that govern any federally authorized tax practitioner within the meaning of section 7525(a)(3)(A).

''(d) DISCLOSURE OF INFORMATION.—The Secretary shall provide guidance on the manner and timing of disclosure to taxpayers of information relating to fees and interest rates imposed in connection with loans made to taxpayers by refund anticipation loan providers.

''(e) ANNUAL RENEWAL OF REGISTRATION.—

''(1) IN GENERAL.—The regulations under subsection (a) shall require an annual renewal of registration and shall set forth the manner in which a registered Federal income tax return preparer or refund anticipation loan provider must renew such registration.

''(2) ANNUAL EXAMINATIONS.—As part of the annual registration, such regulations shall require that each registrant pass an annual refresher examination (including tax law updates).

''(f) FEES.—

''(1) IN GENERAL.—The Secretary may require the payment of reasonable fees for registration and for renewal of registration under the regulations promulgated under subsection (a).

''(2) PURPOSE OF FEES.—Any fees described in paragraph (1) shall be available without fiscal year limitation to the Secretary for the purpose of reimbursement of the costs of administering the requirements of the regulations.

''(g) FEDERAL INCOME TAX RETURN PREPARER.—For purposes of this section—

''(1) IN GENERAL.—The term 'Federal income tax return preparer' means any individual who is an income tax return preparer (within the meaning of section 7701(a)(36)) who prepares not less than 5 returns of tax imposed by subtitle A or claims for refunds of tax imposed by subtitle A per taxable year.

''(2) EXCEPTION.—Such term shall not include a federally authorized tax practitioner (as defined in section 7525(a)(3)(A).

''(h) REFUND ANTICIPATION LOAN PROVIDER.—For purposes of this section, the term 'refund anticipation loan provider' means a person who makes a loan of money or of any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund.''.

(b) PROHIBITION.—

(1) IN GENERAL.—Section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is amended by adding at the end the following new subsection:

''(h) ACTIONS ON A TAXPAYER'S BEHALF BY A NON-REGISTERED PERSON.—Any person not registered pursuant to the regulations promulgated by the Secretary under section 7530 who—

''(1) prepares a tax return for another taxpayer, or

''(2) provides a loan of money or of any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund,

shall be subject to a $500 penalty for each incident of noncompliance.''.

(2) USE OF PENALTIES.—There is authorized to be appropriated and is appropriated to the Secretary of the Treasury for each fiscal year for the administration of the requirements of the regulations promulgated under section 7530 of the Internal Revenue Code of 1986 an amount equal to the penalties imposed under section 6695(h) of such Code for the preceding fiscal year.

(c) COORDINATION WITH SECTION 6060(a).—The Secretary of the Treasury shall coordinate the registration required under the regulations promulgated under section 7530 of the Internal Revenue Code of 1986 with the return requirements of section 6060 of such Code.

(d) PUBLIC AWARENESS CAMPAIGN.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a public information and consumer education campaign, utilizing paid advertising, to inform the public of the requirements that Federal income tax return preparers (as defined in section 7530(g) of the Internal Revenue Code of 1986) must sign the return prepared for a fee and display notice of their registration under the regulations promulgated under section 7530 of such Code.

(2) PUBLIC LIST.—The Secretary of the Treasury shall maintain a public list (in print and electronic media, including Internet-based) of Federal income tax return preparers (as so defined) who are so registered and whose registration has been revoked.

(3) NOTIFICATION.—The Secretary of the Treasury shall notify any taxpayer if such taxpayer's return was prepared by such an unregistered Federal income tax return preparer .

(e) ADDITIONAL FUNDS AVAILABLE FOR COMPLIANCE ACTIVITIES.—The Secretary of the Treasury may use any specifically appropriated funds for earned income tax credit compliance to improve and expand enforcement of Federal income tax preparers under the regulations promulgated under section 7530 of the Internal Revenue Code of 1986.

(f) CLERICAL AMENDMENT.—The table of sections for chapter 77, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 7530. Federal income tax return preparers and refund anticipation loan providers.''.

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

Subtitle C—Other Provisions

SEC. 151. PENALTY FOR FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 152. REPEAL OF APPLICATION OF BELOW-MARKET LOAN RULES TO AMOUNTS PAID TO CERTAIN CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Section 7872(c)(1) (relating to below-market loans to which section applies) is amended—

(1) by striking subparagraph (F), and

(2) by striking ''(C), or (F)'' in subparagraph (E) and inserting ''or (C)''.

(b) FULL EXCEPTION.—Section 7872(g) (relating to exception for certain loans to qualified continuing care facilities) is amended—

(1) by striking ''made by a lender to a qualified continuing care facility pursuant to a continuing care contract'' in paragraph (1) and inserting ''owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and'',

(2) by striking ''increased personal care services or'' in paragraph (3)(C),

(3) by adding at the end of paragraph (3) the following new flush sentence:

''The Secretary shall issue guidance which limits such term to contracts which provide to an individual or individual's spouse only facilities, care, and services described in this paragraph which are customarily offered by continuing care facilities.'',

(4) by inserting ''independent living unit'' after ''all of the'' in paragraph (4)(A)(ii),

(5) by striking paragraphs (2) and (5),

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

(7) by striking ''CERTAIN'' in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2004.

TITLE II—REFORM OF PENALTY AND INTEREST

SEC. 201. INDIVIDUAL ESTIMATED TAX.

(a) INCREASE IN EXCEPTION FOR INDIVIDUALS OWING SMALL AMOUNT OF TAX.—Section 6654(e)(1) (relating to exception where tax is small amount) is amended by striking ''$1,000'' and inserting ''$2,000''.

(b) COMPUTATION OF ADDITION TO TAX.—Subsections (a) and (b) of section 6654 (relating to failure by individual to pay estimated taxes) are amended to read as follows:

''(a) ADDITION TO THE TAX.—

''(1) IN GENERAL.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual for a taxable year, there shall be added to the tax under chapters 1 and 2 for the taxable year the amount determined under paragraph (2) for each day of underpayment.

''(2) AMOUNT.—The amount of the addition to tax for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

''(b) AMOUNT OF UNDERPAYMENT; UNDERPAYMENT RATE.—For purposes of subsection (a)—

''(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

''(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

''(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

''(2) DETERMINATION OF UNDERPAYMENT RATE.—

''(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

''(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

''(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

''(3) TERMINATION OF ESTIMATED TAX UNDERPAYMENT.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estimated tax payments made for taxable years beginning after December 31, 2004.

SEC. 202. CORPORATE ESTIMATED TAX.

(a) INCREASE IN SMALL TAX AMOUNT EXCEPTION.—Section 6655(f) (relating to exception where tax is small amount) is amended by striking ''$500'' and inserting ''$1,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 203. INCREASE IN LARGE CORPORATION THRESHOLD FOR ESTIMATED TAX PAYMENTS.

(a) IN GENERAL.—Section 6655(g)(2) (defining large corporation) is amended—

(1) by striking ''$1,000,000'' in subparagraph (A) and inserting ''the applicable amount'',

(2) by striking ''the $1,000,000 amount specified in subparagraph (A)'' in subparagraph (B)(ii) and inserting ''the applicable amount'',

(3) by redesignating subparagraph (B) as subparagraph (C), and

(4) by inserting after subparagraph (A) the following new subparagraph:

''(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the applicable amount is $1,000,000 increased (but not above $1,500,000) by $50,000 for each taxable year beginning after 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. ABATEMENT OF INTEREST.

(a) ABATEMENT OF INTEREST FOR PERIODS ATTRIBUTABLE TO ANY UNREASONABLE IRS ERROR OR DELAY.—Section 6404(e)(1) is amended—

(1) by striking ''in performing a ministerial or managerial act'' in subparagraphs (A) and (B),

(2) by striking ''deficiency'' in subparagraph (A) and inserting ''underpayment of any tax, addition to tax, or penalty imposed by this title'', and

(3) by striking ''tax described in section 6212(a)'' in subparagraph (B) and inserting ''tax, addition to tax, or penalty imposed by this title''.

(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking ''PENALTY OR ADDITION'' and inserting ''INTEREST, PENALTY, OR ADDITION''; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking ''penalty or addition'' and inserting ''interest, penalty, or addition''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 205. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax

under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date which is 1 year after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or the Secretary's delegate on the date which is 1 year after the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404(g) (relating to suspension of interest and certain penalties where Secretary fails to contact taxpayer) is amended by striking ''1-year period (18-month period in the case of taxable years beginning before January 1, 2004)'' both places it appears and inserting ''18-month period''.

(b) ADDITIONAL EXCEPTION.—Section 6404(g)(2) (relating to exceptions) is amended by striking ''or'' at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

''(D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; or''.

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 207. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

SEC. 208. FRIVOLOUS TAX RETURNS AND SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 209. EXTENSION OF NOTICE REQUIREMENTS WITH RESPECT TO INTEREST AND PENALTY CALCULATIONS.

Sections 3306(c) and 3308(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 are each amended by inserting ''and during the period beginning on the date of the enactment of the Tax Administration Good Government Act, and ending before July 1, 2006,'' after ''July 1, 2003,''.

SEC. 210. EXPANSION OF INTEREST NETTING.

(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: ''Solely for purposes of the preceding sentence, section 6611(e) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after December 31, 2010.

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

SEC. 301. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

''(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date of the enactment of this Act.

SEC. 302. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

''(5) any proceeding under section 7436(c), and''.

(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking ''or (4)'' and inserting ''(4), or (5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 303. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 304. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows ''petition'' and inserting a period.

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

SEC. 305. AMENDMENTS TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

''(a) APPOINTMENT AND COMPENSATION.—

''(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

''(2) LAW CLERKS AND SECRETARIES.—

''(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

''(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

''(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

''(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

''(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

''(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

''(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

''(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

''(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

''(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

''(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

''(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

''(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

''(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

''(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

''(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

''(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

''(A) include the principles set forth in section 2301(b) of title 5, United States Code;

''(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

''(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 306. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end ''and to provide services to pro se taxpayers''.

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

Subtitle B—Tax Court Pension and Compensation

SEC. 311. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(h) ENTITLEMENT TO ANNUITY.—

''(1) IN GENERAL.—

''(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

''(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 20 percent of such average annual salary, divided by the number of such children.

''(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

''(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(ii) 40 percent of such average annual salary, divided by the number of such children.

''(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

''(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

''(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

''(3) TERMINATION OF ANNUITY.—

''(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

''(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

''(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge

surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

''(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

''(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

''(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

''(B) the amount of such salary deductions that were actually made before the date of the judge's death.''.

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.''.

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

''(i) DETERMINATIONS BY CHIEF JUDGE.—

''(1) DEPENDENCY AND DISABILITY.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.''.

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

''(m) COMPUTATION OF ANNUITIES.—

''(1) IN GENERAL.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.''.

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

''(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.''.

SEC. 312. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 313. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

''(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.

SEC. 314. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: ''Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.''.

SEC. 315. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

''(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 316. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(k) THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

''(i) retires under subsection (b), or

''(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b). Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

''(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

''(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.

SEC. 317. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

''(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 318. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

''SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.''.

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

''(a) APPOINTMENT, TENURE, AND REMOVAL.—

''(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

''(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.''.

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking ''90'' and inserting ''92''.

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

''(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

''(2) TREATMENT OF UNUSED LEAVE.—

''(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

''(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

''(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.''.

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking ''SPECIAL TRIAL JUDGES'' and inserting ''MAGISTRATE JUDGES OF THE TAX COURT''.

(2) Section 7443A(b) is amended by striking ''special trial judges of the court'' and inserting ''magistrate judges of the Tax Court''.

(3) Subsections (c) and (d) of section 7443A are amended by striking ''special trial judge'' and inserting ''magistrate judge of the Tax Court'' each place it appears.

(4) Section 7443A(e) is amended by striking ''special trial judges'' and inserting ''magistrate judges of the Tax Court''.

(5) Section 7456(a) is amended by striking ''special trial judge'' each place it appears and inserting ''magistrate judge''.

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting ''MAGISTRATE JUDGES OF THE TAX COURT.—'', and

(B) by striking ''special trial judges'' and inserting ''magistrate judges''.

SEC. 319. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

''(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

''(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.''.

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

''(b) ELECTION.—

''(1) JUDGES.—'',

(2) by moving the text 2 ems to the right, and

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

''(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

''(A) 6 months after the date of the enactment of this paragraph,

''(B) the date the judge takes office, or

''(C) the date the judge marries.''.

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting ''AND MAGISTRATE JUDGES'' after ''JUDGES''.

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting ''and magistrate judges'' after ''judges''.

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting ''or magistrate judge'' after ''judge'' each place it appears other than in the phrase ''chief judge'', and

(B) by inserting ''or magistrate judge's'' after ''judge's'' each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking ''Tax Court judges'' and inserting ''Tax Court judicial officers'',

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ''and section 7443A(d)'' after ''(a)(4)'', and

(ii) in subparagraph (B), by striking ''subsection (a)(4)'' and inserting ''subsections (a)(4) and (a)(6)''.

(5) Section 7448(g) is amended by inserting ''or section 7443B'' after ''section 7447'' each place it appears, and by inserting ''or an annuity'' after ''retired pay''.

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking ''service or retired'' and inserting ''service, retired'', and by inserting '', or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code,'' after ''section 7447'', and

(B) in the last sentence, by striking ''subsections (a)(6) and (7)'' and inserting ''paragraphs (8) and (9) of subsection (a)''.

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting ''or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code'' after ''7447(d)'', and

(B) by inserting ''or 7443B(m)(1)(B) after ''7447(f)(4)''.

(8) Section 7448(n) is amended by inserting ''his years of service pursuant to any appointment under section 7443A,'' after ''of the Tax Court,''.

(9) Section 3121(b)(5)(E) is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting ''or magistrate judge'' before ''of the United States Tax Court''.

SEC. 320. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

''SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

''(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

''(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

''(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

''(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

''(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder

of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

''(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

''(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

''(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

''(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

''(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

''(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

''(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

''(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

''(C) retired pay under section 7447, or

''(D) retired pay under section 7296 of title 38, United States Code.

''(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

''(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

''(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

''(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

''(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

''(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

''(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.

''(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.

''(i) PAYMENTS PURSUANT TO COURT ORDER.—

''(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

''(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

''(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

''(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

''(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

''(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

''(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

''(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

''(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

''(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

''(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

''(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

''(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

''(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

''(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

''(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

''(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

''(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

''(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

''(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

''(n) LUMP-SUM PAYMENTS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

''(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

''(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

''(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

''(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

''(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection

(o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

''(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

''(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

''(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

''(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

''(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

''(2) SPOUSES AND FORMER SPOUSES.—

''(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

''(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

''(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

''(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

''(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

''(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

''(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

''(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

''(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

''(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

''(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

''(i) if the service covered thereby aggregates 1 year or less, or

''(ii) for the fractional part of a month in the total service.

''(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

''(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(3) UNFUNDED LIABILITY.—

''(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

''(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

''(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

''(ii) the balance in the Fund as of the date the unfunded liability is determined.

''(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

''(1) ELECTION TO CONTRIBUTE.—

''(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 321 of the Tax Administration Good Government Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

''(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

''(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

''(3) SPECIAL RULES.—

''(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

''(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

''(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

''(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 321 of the Tax Administration Good Government Act,

''(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 321 of the Tax Administration Good Government Act, or

''(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 321 of the Tax Administration Good Government Act.

''(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 321 of the Tax Administration Good Government Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

''(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

''(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

(b) CONFORMING AMENDMENT.—The table of section for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

''Sec. 7443B. Retirement for magistrate judges of the Tax Court.''.

SEC. 321. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code.

Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 322. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

''(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

''(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

''(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

''(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

''(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

''Sec. 7443C. Recall of magistrate judges of the Tax Court.''.

SEC. 323. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

(a) IN GENERAL.—Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking ''or'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', or'', and by inserting after paragraph (5) the following:

''(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.''.

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

SEC. 402. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking ''in writing'' the first place it appears.

(b) ELIMINATION OF REPORTING REQUIREMENT.—Section 7803(d)(1) (relating to annual reporting), as amended by this Act, is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), (E), (F), (G), and (H) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to requests made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to reports made after the date of the enactment of this Act.

SEC. 403. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking ''TREASURY.—Returns and return information'' and inserting ''TREASURY.—

''(A) IN GENERAL.—Returns and return information'', and

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

''(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return or return information of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return or return information of such representative on a basis other than by reason of such relationship.''.

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

SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting ''(other than the taxpayer's TIN)'' after ''Return information''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 405. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor or other agent to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after the date of the enactment of this Act.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to the portion of calendar year 2004 following the date of the enactment of this Act.

SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended—

(1) by striking ''TAXPAYER.—The Secretary'' and inserting ''TAXPAYER.—

''(1) IN GENERAL.—The Secretary'', and

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

''(2) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—The return of any taxpayer, or return information with respect to such taxpayer, disclosed to a person or persons under paragraph (1) for a purpose specified in writing, electronically, or orally may be disclosed or used

by such person or persons only for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified and shall not be disclosed or used for any other purpose.

''(3) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for written requests and consents which shall—

''(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

''(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

''(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.

''(4) CROSS REFERENCE.—

''For provision providing for civil damages for violation of paragraph (2), see section 7431(i).''.

(b) CIVIL DAMAGES.—Section 7431 (relating to civil damages for unauthorized inspection or disclosure of returns and return information) is amended by adding at the end the following new subsection:

''(i) DISCLOSURE OR USE OF RETURNS AND RETURN INFORMATION OBTAINED UNDER SUBSECTION 6103(c).—Disclosure or use of returns or return information obtained under section 6103(c) other than for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified in writing, electronically, or orally, shall be treated as a violation of section 6103(a).''.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Secretary of the Treasury considers necessary or appropriate to better achieve the purposes of this section.

(d) SUNSET OF EXISTING CONSENTS.—Notwithstanding any other provision of law, any request for or consent to disclose any return or return information under section 6103(c) of the Internal Revenue Code of 1986 made before the date of the enactment of this Act shall remain in effect until the earlier of the date such request or consent is otherwise terminated or the date which is 3 years after such date of enactment.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after the date which is 3 months after the date of the enactment of this Act.

SEC. 407. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OR INSPECTION.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: ''The Secretary shall also notify such taxpayer if the Internal Revenue Service or, upon notice to the Secretary by a Federal or State agency, if such Federal or State agency, proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination.''.

(b) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—Section 7431, as amended by this Act, is amended by adding at the end the following new subsection:

''(j) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—A judgment for damages shall not be awarded under subsection (c) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff.''.

(c) PAYMENT AUTHORITY CLARIFIED.—

(1) IN GENERAL.—Section 7431, as amended by subsection (b), is amended by adding at the end the following new subsection:

''(k) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.''.

(2) ANNUAL REPORTS OF PAYMENTS.—The Secretary of the Treasury shall annually report to the Committee of Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding payments made from the United States Judgment Fund under section 7431(k) of the Internal Revenue Code of 1986.

(d) BURDEN OF PROOF FOR GOOD FAITH EXCEPTION RESTS WITH INDIVIDUAL MAKING INSPECTION OR DISCLOSURE.—Section 7431(b) (relating to exceptions) is amended by adding at the end the following new flush sentence:

''In any proceeding involving the issue of the existence of good faith, the burden of proof with respect to such issue shall be on the individual who made the inspection or disclosure.''.

(e) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by this Act, is amended by adding at the end the following new paragraph:

''(10) REPORT ON WILLFUL UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the willful unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

''(A) administrative investigations,

''(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

''(C) criminal prosecutions.''.

(c) EFFECTIVE DATES.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date which is 180 days after the date of the enactment of this Act.

(2) EXHAUSTION OF REMEDIES AND BURDEN OF PROOF.—The amendments made by subsections (b) and (d) shall apply to inspections and disclosures occurring on and after the date which is 180 days after the date of the enactment of this Act.

(3) PAYMENT AUTHORITY.—The amendment made by subsection (c)(1) shall take effect on the date which is 180 days after the date of the enactment of this Act.

(4) REPORTS.—The amendment made by subsection (e) shall apply to calendar years ending after the date which is 180 days after the date of the enactment of this Act.

SEC. 408. EXPANSION OF DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B)(i) (relating to danger of death or physical injury) is amended by striking ''or State law enforcement agency'' and inserting '', State, or local law enforcement agency''.

(b) CONFORMING AMENDMENTS.—Section 6103(p)(4) is amended—

(1) by striking ''(i)(3)(B)(i) or (7)(A)(ii)'' and inserting ''(i)(7)(A)(ii)'', and

(2) by striking '', (i)(3)(B)(i),''.

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

SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) IN GENERAL.—Section 6103(m)(1) (relating to tax refunds) is amended by striking ''taxpayer identity information to the press and other media'' and by inserting ''a person's name and the city, State, and zip code of the person's mailing address to the press, other media, and through any other means of mass communication,''.

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

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection

may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting ''or any appropriate State officer who has or had access to returns or return information under section 6104(c)'' after ''this section'' in paragraph (2), and

(B) by striking ''or subsection (n)'' in paragraph (3) and inserting ''subsection (n), or section 6104(c)''.

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''and section 6104(c)'' after ''section'' in the first sentence.

(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18) or any appropriate State officer (as defined in section 6104(c))''.

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS''.

(5) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(7) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6104(c))'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 411. TREATMENT OF PUBLIC RECORDS.

(a) IN GENERAL.—Section 6103(b) (relating to definitions) is amended by adding at the end the following new paragraph:

''(12) TREATMENT OF PUBLIC RECORDS.—Returns and return information shall not be subject to subsection (a) if disclosed—

''(A) in the course of any judicial or administrative proceeding or pursuant to tax administration activities, and

''(B) properly made part of the public record.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 412. EMPLOYEE IDENTITY DISCLOSURES.

(a) IN GENERAL.—Section 6103 (confidentiality and disclosure of returns and return information) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) EMPLOYEE IDENTITY DISCLOSURES.—Nothing in this section may be construed to prohibit agents of the Department of the Treasury from identifying themselves, their organizational affiliation, and the nature of an investigation when contacting third parties in writing or in person.''.

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

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

SEC. 413. TAXPAYER IDENTIFICATION NUMBER MATCHING.

(a) IN GENERAL.—Section 6103(k) (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following new paragraph:

''(10) TIN MATCHING.—The Secretary may disclose to any person required to provide a TIN (as defined in section 7701(a)(41)) to the Secretary whether such information matches records maintained by the Secretary.''.

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

SEC. 414. FORM 8300 DISCLOSURES.

(a) IN GENERAL.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''(15),'' both places it appears.

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

SEC. 415. DISCLOSURE TO LAW ENFORCEMENT AGENCIES REGARDING TERRORIST ACTIVITIES.

(a) IN GENERAL.—Section 6103(i)(7)(A) (relating to disclosure to law enforcement agencies) is amended by adding at the end the following new clause:

''(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.''.

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

TITLE V—SIMPLIFICATION

Subtitle A—Uniform Definition of Child

SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 is amended to read as follows:

''SEC. 152. DEPENDENT DEFINED.

''(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

''(1) a qualifying child, or

''(2) a qualifying relative.

''(b) EXCEPTIONS.—For purposes of this section—

''(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

''(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

''(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

''(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

''(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

''(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

''(ii) the taxpayer is a citizen or national of the United States.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

''(C) who meets the age requirements of paragraph (3), and

''(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

''(A) a child of the taxpayer or a descendant of such a child, or

''(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

''(3) AGE REQUIREMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

''(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

''(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

''(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

''(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

''(i) a parent of the individual, or

''(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

''(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

''(i) the parent with whom the child resided for the longest period of time during the taxable year, or

''(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

''(d) QUALIFYING RELATIVE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

''(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

''(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

''(A) A child or a descendant of a child.

''(B) A brother, sister, stepbrother, or stepsister.

''(C) The father or mother, or an ancestor of either.

''(D) A stepfather or stepmother.

''(E) A son or daughter of a brother or sister of the taxpayer.

''(F) A brother or sister of the father or mother of the taxpayer.

''(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

''(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

''(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

''(A) no one person contributed over one-half of such support,

''(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

''(C) the taxpayer contributed over 10 percent of such support, and

''(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

''(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

''(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

''(ii) the income arises solely from activities at such workshop which are incident to such medical care.

''(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

''(i) which provides special instruction or training designed to alleviate the disability of the individual, and

''(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

''(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

''(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

''(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

''(e) SPECIAL RULE FOR DIVORCED PARENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

''(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

''(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(ii) who are separated under a written separation agreement, or

''(iii) who live apart at all times during the last 6 months of the calendar year, and

''(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

''(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

''(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

''(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

''(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, or

''(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of subparagraph (B), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

''(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

''(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

''(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

''(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

''(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) CHILD DEFINED.—

''(A) IN GENERAL.—The term 'child' means an individual who is—

''(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

''(ii) an eligible foster child of the taxpayer.

''(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

''(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

''(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

''(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

''(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

''(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

''(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

''(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

''(A) a child of the taxpayer, and

''(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account.

''(6) TREATMENT OF MISSING CHILDREN.—

''(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

''(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

''(i) the deduction under section 151(c),

''(ii) the credit under section 24 (relating to child tax credit),

''(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

''(iv) the earned income credit under section 32.

''(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

''(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

''(7) CROSS REFERENCES.—

"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".

SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

''(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

''(I) is married at the close of the taxpayer's taxable year, and

''(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

''(i) subparagraph (H) of section 152(d)(2), or

''(ii) paragraph (3) of section 152(d).''.

SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) is amended by striking ''In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))'' and inserting ''In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual''.

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

''(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

''(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

''(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

''(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

''(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.''.

SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

''(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.''.

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking ''the first sentence of section 152(b)(3)'' and inserting ''subparagraph (A) of section 152(b)(3)''.

SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

''(3) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

''(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

''(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

''(D) IDENTIFICATION REQUIREMENTS.—

''(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

''(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking ''(3)(E)'' and inserting ''(3)(C)''.

(3) Section 32(m) is amended by striking ''subsections (c)(1)(F)'' and inserting ''subsections (c)(1)(E)''.

SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 is amended to read as follows:

''(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.''.

SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(2) Section 21(e)(5) is amended—

(A) by striking ''paragraph (2) or (4) of'' in subparagraph (A), and

(B) by striking ''within the meaning of section 152(e)(1)'' and inserting ''as defined in section 152(e)(3)(A)''.

(3) Section 21(e)(6)(B) is amended by striking ''section 151(c)(3)'' and inserting ''section 152(f)(1)''.

(4) Section 25B(c)(2)(B) is amended by striking ''151(c)(4)'' and inserting ''152(f)(2)''.

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking ''paragraphs (1) through (8) of section 152(a)'' both places it appears and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(B) Section 51(i)(1)(C) is amended by striking ''152(a)(9)'' and inserting ''152(d)(2)(H)''.

(6) Section 72(t)(2)(D)(i)(III) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(7) Section 72(t)(7)(A)(iii) is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(8) Section 42(i)(3)(D)(ii)(I) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(9) Subsections (b) and (c)(1) of section 105 are amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(10) Section 120(d)(4) is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(11) Section 125(e)(1)(D) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(12) Section 129(c)(2) is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(13) The first sentence of section 132(h)(2)(B) is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(14) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(16) Section 170(g)(3) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(17) Section 213(a) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(18) The second sentence of section 213(d)(11) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(19) Section 220(d)(2)(A) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(20) Section 221(d)(4) is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(21) Section 529(e)(2)(B) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(22) Section 2032A(c)(7)(D) is amended by striking ''section 151(c)(4)'' and inserting ''section 152(f)(2)''.

(23) Section 2057(d)(2)(B) is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(24) Section 7701(a)(17) is amended by striking ''152(b)(4), 682,'' and inserting ''682''.

(25) Section 7702B(f)(2)(C)(iii) is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(26) Section 7703(b)(1) is amended—

(A) by striking ''151(c)(3)'' and inserting ''152(f)(1)'', and

(B) by striking ''paragraph (2) or (4) of''.

SEC. 508. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 2004.

Subtitle B—Simplification Through Elimination of Inoperative Provisions

SEC. 511. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.

(a) IN GENERAL.—

(1) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—Paragraph (7) of section 1(f) is amended to read as follows:

''(7) SPECIAL RULE FOR CERTAIN BRACKETS.—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate bracket begins shall be determined under paragraph (3) by substituting '1993' for '1992'.''.

(2) CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.—Section 29 is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(3) EARNED INCOME CREDIT.—Paragraph (1) of section 32(b) is amended—

(A) by striking subparagraphs (B) and (C), and

(B) in subparagraph (A) by striking ''(A) IN GENERAL.—In the case of taxable years beginning after 1995'' and moving the table 2 ems to the left.

(4) GENERAL BUSINESS CREDITS.—Subsection (d) of section 38 is amended by striking paragraph (3).

(5) CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Subsection (d) of section 39 is amended by striking paragraphs (1) through (8) and by redesignating paragraphs (9) and (10) as paragraphs (1) and (2), respectively.

(6) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—Clause (ii) of section 56(g)(4)(F) is amended by striking ''In the case of any taxable year beginning after December 31, 1992, clause'' and inserting ''Clause''.

(7) ITEMS OF TAX PREFERENCE; DEPLETION.—Paragraph (1) of section 57(a) is amended by striking ''Effective with respect to taxable years beginning after December 31, 1992, this'' and inserting ''This''.

(8) INTANGIBLE DRILLING COSTS.—

(A) Clause (i) of section 57(a)(2)(E) is amended by striking ''In the case of any taxable year beginning after December 31, 1992, this'' and inserting ''This''.

(B) Clause (ii) of section 57(a)(2)(E) is amended by striking ''(30 percent in the case of taxable years beginning in 1993)''.

(9) ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.—Section 72 is amended—

(A) in subsection (c)(4) by striking ''; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954'', and

(B) in subsection (g)(3) by striking ''January 1, 1954, or'' and '', whichever is later''.

(10) ACCIDENT AND HEALTH PLANS.—Section 105(f) is amended by striking ''or (d)''.

(11) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c)(1) is amended by striking ''Effective on and after January 1, 1997, gross'' and inserting ''Gross''.

(12) CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES.—Subsection (c) of section 112 is amended—

(A) by striking ''(after June 24, 1950)'' in paragraph (2), and

(B) striking ''such zone;'' and all that follows in paragraph (3) and inserting ''such zone.''.

(13) PRINCIPAL RESIDENCE.—Section 121(b)(3) is amended—

(A) by striking subparagraph (B); and

(B) in subparagraph (A) by striking ''(A) IN GENERAL.—'' and moving the text 2 ems to the left.

(14) CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY.—Section 122(b)(1) is amended by striking ''after December 31, 1965,''.

(15) GREAT PLAINS CONSERVATION PROGRAM.—Section 126(a) is amended by striking paragraph (6) and by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

(16) MORTGAGE REVENUE BONDS FOR RESIDENCES IN FEDERAL DISASTER AREAS.—Section 143(k) is amended by striking paragraph (11).

(17) TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAW.—Section 162(g) is amended by striking the last sentence.

(18) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—Paragraph (4) of section 162(h) is amended by striking ''For taxable years beginning after December 31, 1980, this'' and inserting ''This''.

(19) HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Paragraph (1) of section 162(l) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''.

(20) INTEREST.—

(A) Section 163 is amended by striking paragraph (6) of subsection (d) and paragraph (5) (relating to phase-in of limitation) of subsection (h).

(B) Section 56(b)(1)(C) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively.

(21) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—Section 170 is amended by striking subsection (k).

(22) AMORTIZABLE BOND PREMIUM.—Subparagraph (B) of section 171(b)(1) is amended to read as follows:

''(B)(i) in the case of a bond described in subsection (a)(2), with reference to the amount payable on maturity or earlier call date, and

''(ii) in the case of a bond described in subsection (a)(1), with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period of earlier call date, with reference to the amount payable on earlier call date), and''.

(23) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

(A) Section 172 is amended—

(i) by striking subparagraph (D) of subsection (b)(1) and by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (D), (E), (F), and (G), respectively,

(ii) by striking ''ending after August 2, 1989'' in subsection (b)(1)(D)(i)(II) (as redesignated by clause (i)),

(iii) by striking ''subparagraph (F)'' in subsection (b)(1)(G) (as redesignated by clause (i)) and inserting ''subparagraph (E)'',

(iv) by striking subsection (g), and

(v) by striking subparagraph (F) of subsection (h)(2).

(B) Section 172(h)(4) is amended by striking ''subsection (b)(1)(E)'' each place it appears and inserting ''subsection (b)(1)(D)''.

(C) Section 172(i)(3) is amended by striking ''subsection (b)(1)(G)'' each place it appears and inserting ''subsection (b)(1)(F)''.

(D) Section 172(j) is amended by striking ''subsection (b)(1)(H)'' each place it appears and inserting ''subsection (b)(1)(G)''.

(E) Section 172, as amended by subparagraphs (A) through (D) of this paragraph, is amended—

(i) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively,

(ii) by striking ''subsection (h)'' each place it appears and inserting ''subsection (g)'', and

(iii) by striking ''subsection (i)'' each place it appears and inserting ''subsection (h)''.

(24) RESEARCH AND EXPERIMENTAL EXPENDITURES.—Subparagraph (A) of section 174(a)(2) is amended to read as follows:

''(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (1) are paid or incurred.''.

(25) AMORTIZATION OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—Paragraph (2) of section 174(b)(2) is amended by striking ''beginning after December 31, 1953''.

(26) SOIL AND WATER CONSERVATION EXPENDITURES.—Paragraph (1) of section 175(d) is amended to read as follows:

''(1) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year for which expenditures described in subsection (a) are paid or incurred.''.

(27) ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Section 183(e)(1) is amended by striking the last sentence.

(28) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK; AND DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—

(A) Sections 244 and 247 are hereby repealed and the table of sections for part VIII of subchapter B of chapter 1 is amended by striking the items relating to sections 244 and 247.

(B) Paragraph (5) of section 172(d) is amended to read as follows:

''(5) COMPUTATION OF DEDUCTION FOR DIVIDENDS RECEIVED.—The deductions allowed by section 243 (relating to dividends received by corporations) and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).''.

(C) Paragraph (1) of section 243(c) is amended to read as follows:

''(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, subsection (a)(1) shall be applied by substituting '80 percent' for '70 percent'.''.

(D) Section 243(d) is amended by striking paragraph (4).

(E) Section 246 is amended—

(i) by striking '', 244,'' in subsection (a)(1),

(ii) in subsection (b)(1)—

(I) by striking ''sections 243(a)(1), and 244(a),'' the first place it appears and inserting ''section 243(a)(1),'',

(II) by striking ''244(a),'' the second place it appears therein, and

(III) by striking ''subsection (a) or (b) of section 245, and 247,'' and inserting ''and subsection (a) or (b) of section 245,'', and

(iii) by striking '', 244,'' in subsection (c)(1).

(F) Section 246A is amended by striking '', 244,'' both places it appears in subsections (a) and (e).

(G) Sections 263(g)(2)(B)(iii), 277(a), 301(e)(2), 469(e)(4), 512(a)(3)(A), subparagraphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii), 832(b)(5), 833(b)(3)(E), 1059(b)(2)(B), and 1244(c)(2)(C) are each amended by striking '', 244,'' each place it appears.

(H) Section 805(a)(4)(B) is amended by striking '', 244(a),'' each place it appears.

(I) Section 810(c)(2)(B) is amended by striking ''244 (relating to dividends on certain preferred stock of public utilities),''.

(29) ORGANIZATION EXPENSES.—Section 248(c) is amended by striking ''beginning after December 31, 1953,'' and by striking the last sentence.

(30) BOND REPURCHASE PREMIUM.—Section 249(b)(1) is amended by striking '', in the case of bonds or other evidences of indebtedness issued after February 28, 1913,''.

(31) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY DISALLOWED.—Section 267(d) is amended by striking ''(or by reason of section 24(b) of the Internal Revenue Code of 1939)'' in paragraph (1), by striking ''after December 31, 1953,'' in paragraph (2), by striking the second sentence, and by striking ''or by reason of section 118 of the Internal Revenue Code of 1939'' in the last sentence.

(32) ACQUISITIONS MADE TO EVADE OR AVOID INCOME TAX.—Paragraphs (1) and (2) of section 269(a) are each amended by striking ''or acquired on or after October 8, 1940,''.

(33) INTEREST ON INDEBTEDNESS INCURRED BY CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.—Section 279 is amended—

(A) by striking ''after December 31, 1967,'' in subsection (a)(2),

(B) by striking ''after October 9, 1969,'' in subsection (b),

(C) by striking ''after October 9, 1969, and'' in subsection (d)(5), and

(D) by striking subsection (i) and by redesignating subsection (j) as subsection (i).

(34) SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.—Paragraph (4) of section 291(a) is amended by striking ''In the case of taxable years beginning after December 31, 1984, section'' and inserting ''Section''.

(35) QUALIFICATIONS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Section 409 is amended by striking subsections (a), (g), and (q).

(36) FUNDING STANDARDS.—Section 412(m)(4) is amended—

(A) by striking ''the applicable percentage'' in subparagraph (A) and inserting ''25 percent'', and

(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(37) RETIREE HEALTH ACCOUNTS.—Section 420 is amended—

(A) by striking paragraph (4) in subsection (b) and by redesignating paragraph (5) as paragraph (4), and

(B) by amending paragraph (2) of subsection (c) to read as follows:

''(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).''.

(38) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) is amended by striking ''after December 31, 1963,''.

(39) LIMITATION ON DEDUCTIONS FOR CERTAIN FARMING.—Section 464 is amended—

(A) by striking ''any farming syndicate (as defined in subsection (c))'' both places it appears in subsections (a) and (b) and inserting ''any taxpayer to whom subsection (f) applies'', and

(B) by striking subsection (g).

(40) DEDUCTIONS LIMITED TO AMOUNT AT RISK.—

(A) Paragraph (3) of section 465(c) is amended by striking ''In the case of taxable years beginning after December 31, 1978, this'' and inserting ''This''.

(B) Paragraph (2) of section 465(e)(2)(A) is amended by striking ''beginning after December 31, 1978''.

(41) NUCLEAR DECOMMISSIONING COSTS.—Section 468A(e)(2) is amended—

(A) by striking ''at the rate set forth in subparagraph (B)'' in subparagraph (A) and inserting ''at a rate of 20 percent'', and

(B) by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(42) PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.—

(A) Section 469 is amended by striking subsection (m).

(B) Subsection (b) of section 58 is amended by adding ''and'' at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(43) ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF ACCOUNTING.—Section 481(b)(3) is amended by striking subparagraph (C).

(44) EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.—Section 501 is amended by striking subsection (q).

(45) REQUIREMENTS FOR EXEMPTION.—

(A) Section 503(a)(1) is amended to read as follows:

''(1) GENERAL RULE.—An organization described in paragraph (17) or (18) of section 501(c) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction.''.

(B) Paragraph (2) of section 503(a) is amended by striking ''described in section 501(c)(17) or (18) or paragraph (a)(1)(B)'' and inserting ''described in paragraph (1)''.

(C) Subsection (c) of section 503 is amended by striking ''described in section 501(c)(17) or (18) or subsection (a)(1)(B)'' and inserting ''described in subsection (a)(1)''.

(46) AMOUNTS RECEIVED BY SURVIVING ANNUITANT UNDER JOINT AND SURVIVOR ANNUITY CONTRACT.—Subparagraph (A) of section 691(d)(1) is amended by striking ''after December 31, 1953, and''.

(47) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—Section 692(a)(1) is amended by striking ''after June 24, 1950''.

(48) INSURANCE COMPANY TAXABLE INCOME.—

(A) Section 832(e) is amended by striking ''of taxable years beginning after December 31, 1966,''.

(B) Section 832(e)(6) is amended by striking ''In the case of any taxable year beginning after December 31, 1970, the'' and by inserting ''The''.

(49) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—Subparagraph (B) of section 871(a)(1) is amended to read as follows:

''(B) gains described in subsection (b) or (c) of section 631,''.

(50) PROPERTY ON WHICH LESSEE HAS MADE IMPROVEMENTS.—Section 1019 is amended by striking the last sentence.

(51) INVOLUNTARY CONVERSION.—Section 1033 is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).

(52) PROPERTY ACQUIRED DURING AFFILIATION.—Section 1051 is repealed and the table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1051.

(53) HOLDING PERIOD OF PROPERTY.—

(A) Paragraph (5) of section 1223 is amended by striking ''(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)''.

(B) Paragraph (7) of section 1223 is amended by striking the last sentence.

(C) Paragraph (9) of section 1223 is repealed.

(54) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS.—Subparagraph (A) of section 1231(c)(2) is amended by striking ''beginning after December 31, 1981''.

(55) SALE OR EXCHANGE OF PATENTS.—Section 1235 is amended—

(A) by striking subsection (c) and by redesignating subsections (d) and (e) as (c) and (d), respectively, and

(B) by striking ''(d)'' in subsection (b) and inserting ''(c)''.

(56) DEALERS IN SECURITIES.—Subsection (b) of section 1236 is amended by striking ''after November 19, 1951,''.

(57) SALE OF PATENTS.—Subsection (a) of section 1249 is amended by striking ''after December 31, 1962,''.

(58) GAIN FROM DISPOSITION OF FARM LAND.—Paragraph (1) of section 1252(a) is amended by striking ''after December 31, 1969,'' both places it appears.

(59) TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.—Subsection (c) of section 1271 is amended to read as follows:

''(c) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

''(1) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

''(A) an amount equal to the original issue discount, or

''(B) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

''(2) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

''(3) CROSS REFERENCE.—

''For current inclusion of original issue discount, see section 1272.''.

(60) AMOUNT AND METHOD OF ADJUSTMENT.—Section 1314 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(61) ELECTION; REVOCATION; TERMINATION.—Clause (iii) of section 1362(d)(3) is amended by striking ''unless'' and all that follows and inserting ''unless the corporation was an S corporation for such taxable year.''.

(62) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 is amended by striking ''the following percent'' and all that follows and inserting ''12.4 percent of the amount of the self-employment income for such taxable year.''.

(63) HOSPITAL INSURANCE.—Subsection (b) of section 1401 is amended by striking ''the following percent'' and all that follows and inserting ''2.9 percent of the amount of the self-employment income for such taxable year.''.

(64) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Paragraph (3) of section 1402(e) is amended by striking ''whichever of the following dates is later: (A)'' and by striking ''; or (B)'' and all that follows and by inserting a period.

(65) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—The first sentence of subsection (b) of section 1441 and the first sentence of paragraph (5) of section 1441(c) are each amended by striking ''gains subject to tax'' and all that follows through ''October 4, 1966'' and inserting ''and gains subject to tax under section 871(a)(1)(D)''.

(66) AFFILIATED GROUP DEFINED.—Subparagraph (A) of section 1504(a)(3) is amended by striking ''for a taxable year which includes any period after December 31, 1984'' in clause (i) and by striking ''in a taxable year beginning after December 31, 1984'' in clause (ii).

(67) DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.—

(A) Subsection (a) of section 1551 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Section 1551(b) is amended—

(i) by striking ''or (2)'' in paragraph (1), and

(ii) by striking ''(a)(3)'' in paragraph (2) and inserting ''(a)(2)''.

(68) DEFINITION OF WAGES.—Section 3121(b) is amended by striking paragraph (17).

(69) CREDITS AGAINST TAX.—

(A) Paragraph (4) of section 3302(f) is amended by striking ''subsection—'' and all that follows through ''(A) IN GENERAL.—'', by striking subparagraph (B), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by moving the text of such subparagraphs (as so redesignated) 2 ems to the left.

(B) Paragraph (5) of section 3302(f) is amended by striking subparagraphs (D) and by redesignating subparagraph (E) as subparagraph (D).

(70) DOMESTIC SERVICE EMPLOYMENT TAXES.—Section 3510(b) is amended by striking paragraph (4).

(71) TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Section 4042(b)(2)(A) is amended to read as follows:

''(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.''.

(72) TRANSPORTATION BY AIR.—Section 4261(e) is amended—

(A) in paragraph (1) by striking subparagraph (C), and

(B) by striking paragraph (5).

(73) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942 is amended—

(A) by striking subsection (f)(2)(D),

(B) in subsection (g)(2)(A) by striking ''For all taxable years beginning on or after January 1, 1975, subject'' and inserting ''Subject'',

(C) in subsection (g) by striking paragraph (4), and

(D) in subsection (i)(2) by striking ''beginning after December 31, 1969, and''.

(74) TAXES ON TAXABLE EXPENDITURES.—Section 4945(f) is amended by striking ''(excluding therefrom any preceding taxable year which begins before January 1, 1970)''.

(75) RETURNS.—Subsection (a) of section 6039D is amended by striking ''beginning after December 31, 1984,''.

(76) INFORMATION RETURNS.—Subsection (c) of section 6060 is amended by striking ''year'' and all that follows and inserting ''year.''.

(77) ABATEMENTS.—Section 6404(f) is amended by striking paragraph (3).

(78) FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.—Clause (i) of section 6655(g)(4)(A) is amended by striking ''(or the corresponding provisions of prior law)''.

(79) RETIREMENT.—Section 7447(i)(3)(B)(ii) is amended by striking ''at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter'', and inserting ''at 3 percent per annum''.

(80) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF JUDGES.—

(A) Paragraph (2) of section 7448(a) is amended by striking ''or under section 1106 of the Internal Revenue Code of 1939'' and by striking ''or pursuant to section 1106(d) of the Internal Revenue Code of 1939''.

(B) Subsection (g) of section 7448 is amended by striking ''or other than pursuant to section 1106 of the Internal Revenue Code of 1939''.

(C) Subsections (g), (j)(1), and (j)(2) of section 7448 are each amended by striking ''at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter'' and inserting ''at 3 percent per annum''.

(81) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (4) of section 7518(g) is amended by striking ''any nonqualified withdrawal'' and all that follows through ''shall be determined'' and inserting ''any nonqualified withdrawal shall be determined''.

(82) VALUATION TABLES.—Paragraph (3) of section 7520(c) is amended—

(A) by striking ''Not later than December 31, 1989, the'' and inserting ''The'', and

(B) by striking ''thereafter'' in the last sentence thereof.

(83) ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.—Section 7651 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(84) DEFINITION OF EMPLOYEE.—(A) Section 7701(a)(20) is amended by striking ''chapter 21'' and all that follows and inserting ''chapter 21.''.

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SAVINGS PROVISION.—If—

(A) any provision amended or repealed by subsection (a) applied to—

(i) any transaction occurring before the date of the enactment of this Act,

(ii) any property acquired before such date of enactment, or

(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment,

nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

TITLE VI—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 601. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction, or

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 602. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue

Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

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

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 603. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 604. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 605. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 606. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 607. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 608. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

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

SEC. 609. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 610. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''.

SEC. 611. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 612. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 613. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO TAX-MOTIVATED TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 614. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

PART II—OTHER CORPORATE GOVERNANCE PROVISIONS

SEC. 621. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''.

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 622. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL INCOME TAX RETURN OF A CORPORATION.

(a) IN GENERAL.—The Federal annual tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures to ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to the Federal annual tax return of a corporation with respect to income for taxable years ending after the date of the enactment of this Act.

SEC. 623. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 624. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 625. INCREASE IN CRIMINAL MONETARY PENALTY FOR INDIVIDUALS TO THE AMOUNT OF THE TAX AT ISSUE.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6203(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. 626. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term ''Voluntary Offshore Compliance Initiative'' means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

PART III—EXTENSION OF IRS USER FEES

SEC. 631. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''September 30, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

IRS FREE FILE PROGRAM

Mr. ALLEN. Mr. President, I commend the chairman and ranking member of the Finance Committee, Senators GRASSLEY and BAUCUS, for their work on the Tax Administration Good Government Act. The legislation provides taxpayer safeguards, streamlines tax administration, and simplifies the tax code. I do have some concern with one provision in the bill. Specifically, the bill also includes a provision on the IRS Free File Program. The Free File Program is the result of a public-private partnership agreement between the IRS and the Free File Alliance, LLC, a group of tax software companies managed by the Council for the Electronic Revenue Communication Advancement, CERCA. It is important to continue to promote these types of public-private partnerships and it is my hope that we can work together on this provision as we move to conference with the House of Representatives.

Mr. GRASSLEY. I thank the Senator from Virginia. The IRS Free File Program is a direct result of the goal that Congress set for the IRS to have 80 percent of returns filed electronically by 2007. The partnership agreement calls for the Free File Alliance to provide free tax preparation and filing to at least 60 percent of all taxpayers or approximately 78 million individuals who file an individual tax return. Each participating software company has its own eligibility requirements. The eligibility requirements ensure that lower income, disadvantaged and underserved taxpayers benefit from the free file program with the Free File Alliance, LLC. The provision in the bill was intended to ensure that the taxpayers participating in the Free File Program were affirmatively consenting to solicitation for other products or services. I look forward to working with him to ensure that we continue to promote such public-private partnerships.

Mr. BAUCUS. I agree with Chairman GRASSLEY. It is our intent with the Free File provision to protect the integrity of our voluntary tax system by providing lower income, disadvantaged and under-served taxpayers the ability to meet their filing obligation without subjecting themselves to unwanted marketing. I also commit to work with Senator ALLEN as we conference with the House.

Mr. ALLEN. I thank the chairman and ranking member.

CONTINUING CARE FACILITIES

Mr. GRAHAM of Florida. Mr. President, I want to thank the chairman and ranking member of the Finance Committee, Senators GRASSLEY and BAUCUS, for including a provision that I supported as part of the Tax Administration Good Government Act to level the playing field for residents of qualified continuing care retirement communities.

Continuing care retirement communities, or CCRCs, are the oldest form of seniors housing in America, dating back to the late 1800s—offering a variety of living arrangements and services to accommodate residents of all levels of physical ability and health. The goal of a CCRC is to accommodate changing lifestyle preferences and health care needs. In general, CCRCs make independent living, assisted living, and skilled nursing available all on one campus. The CCRC approach offers residents the pyschological and financial security of knowing that, should they require increased levels of care, it is readily available at one location. As a private pay option, CCRCs also play an important role in the Nation's long-term care delivery system because very few, if any, CCRC residents will ever require Medicaid funding for their long-term care.

Mr. GRASSLEY. I thank the Senator from Florida for his comments. This is a provision that I have also supported. The provision included in the bill will go a long way for those seniors who live in the affected CCRCs. I also want to clarify one point with Senator BAUCUS. It is my understanding that the purpose of the amendment is to bring the tax treatment of those CCRCs described in section 7872(g) into alignment with the treatment that has historically been afforded to those CCRCs that are not described in section 7872(g). In other words, there is no intent to alter the treatment that the IRS has historically provided for CCRCs that are not described in section 7872(g). I am committed to working with Senator GRAHAM as we move this legislation forward.

Mr. BAUCUS. I agree with the chairman. There is no intent to alter the treatment that the IRS has historically provided for CCRCs that are not described in section 7872(g). This is a critical point that could affect a large number of seniors. We do not want there to be any misunderstanding on this issue since the immediate consequences could be significant—with large numbers of seniors potentially having to pay additional taxes. I also know that Senator MIKULSKI has expressed an interest in this provision. I give my commitment to both Senators GRAHAM and MIKULSKI to work with them on this provision as we go to conference with the House.

Mr. GRAHAM of Florida. I thank the chairman and ranking member for clarifying the intent of this provision.

Mr. FRIST. Mr. President, I ask unanimous consent that the Grassley-Baucus technical amendment, which is at the desk, be adopted; that the committee-reported substitute, as amended, be agreed to; and that the bill be read the third time.

The amendment (No. 3218) was agreed to.

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

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

Mr. FRIST. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1528, and the Senate proceed to its immediate 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. 1528) to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service.

Mr. FRIST. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and the text of S. 882, as amended be inserted; that H.R. 1528, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; and that S. 882 be returned to the calendar, all without intervening action or debate.

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

The bill (H. R. 1528), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. GRASSLEY. Mr. President, today the Senate has approved the Tax Administration Good Government Act. This legislation is the first legislation addressing tax administration since the IRS Restructuring and Reform Act of 1998.

The legislation contains five major components. First, it provides additional safeguards for taxpayers. Second, the legislation significantly simplifies the current interest and penalty regimes. Third, the act also includes the proposals passed out of the Finance Committee on April 2, 2003 and included in a bill introduced by Senators Hatch and Breaux to modernize the United States Tax Court.

Fourth, our legislation also includes several provisions, some of which were requested by the Treasury Department and the Joint Committee on Taxation, to strike an appropriate balance in protecting taxpayer confidentiality through disclosure reforms. Finally, the legislation takes an important step toward simplification of the Tax Code through the elimination of obsolete provisions and unifying the definition of child within the Tax Code.

We have worked closely with the Treasury Department, the Internal Revenue Service, the National Taxpayer Advocate, and the Joint Committee on Taxation to develop this package of proposals to promote good government in the administration of our Tax Code.

Congress's responsibility for the tax system does not stop after we pass tax law changes. We have an oversight responsibility to ensure that taxpayer rights are protected, that our tax laws are not administered counter to congressional intent, that the judicial body with primary jurisdiction over the tax laws has the tools necessary to provide independent review of controversies between taxpayers and the Internal Revenue Service, and to take steps to simplify the Tax Code whenever possible.

We are pleased to say that today, the Senate has taken a big step in that direction.

MEASURES READ THE FIRST TIME—H.R. 2728 and S. 2448

Mr. FRIST. Mr. President, I understand there are two bills at the desk, and I ask that they be read the first time, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the titles of the bills for the first time, en bloc.

The legislative clerk read as follows:

A bill (H.R. 2728) to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration; to provide for greater efficiency at the Occupational Safety and Health Review Commission; to provide for an independent review of citations issued by the Occupational Safety and Health Administration; to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration; and to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes.

A bill (S. 2448) to coordinate rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with other Federal laws.

Mr. FRIST. Mr. President, I now ask for their second reading, and in order to place the bills on the calendar under rule XIV, I object to further proceedings to these bills en bloc.

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

ORDERS FOR THURSDAY, MAY 20, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Thursday, May 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, the Senate then begin a period of morning business for up to 60 minutes with the majority leader or his designee in control of the first 30 minutes and the Democratic leader or his designee in control of the final 30 minutes; provided that following morning business the Senate resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill.

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

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume consideration of the Department of Defense authorization bill. We made good progress on that bill today, disposing of 16 amendments. Senators WARNER and LEVIN will continue working through amendments tomorrow. Rollcall votes are expected on amendments to the bill throughout the day tomorrow, and Senators will be notified when the first vote is scheduled.

I also want to alert all Senators that the fiscal year 2005 budget resolution conference report may become available, and we may consider that conference report before the week concludes. Votes will occur over the next 2 days and Members should plan accordingly.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:21 p.m., adjourned until Thursday, May 20, 2004, at 10 a.m.

EXTENSIONS OF REMARKS

HONORING CLAIRE LUKE, EXECUTIVE DIRECTOR OF THE CENTRAL FAIRFAX CHAMBER OF COMMERCE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Claire Luke for over 13 years of dedicated service to the Central Fairfax Chamber of Commerce as the Executive Director.

Ms. Luke first served the Central Fairfax Chamber of Commerce (CFCC) as Events Coordinator in 1989. At that time, chamber membership was comprised of 250 businesses, and the group held only two events per month. Since then, largely due to Ms. Luke's dedicated efforts and impressive organization, membership has increased to over 850 businesses. Today, 3,500 area business people are able to participate in 7–10 events per month.

For years, Ms. Luke has worked tirelessly on the chamber's behalf. She successfully has overseen coordination of seminars, breakfasts, luncheons, mixers, and 12 active committees. Additionally, she skillfully has directed special events such as the Regional Business Showcase, the Taste of Fairfax, Fall Family Festival, and a golf tournament.

Under Ms. Luke's guidance, the CFCC scholarship, awarded annually to a select number of deserving high school seniors, has gained great recognition. Ms. Luke further contributes to local education by serving on the board of directors for the Margaret Kilpatrick Adams Scholarship Fund.

Ms. Luke also has been incredibly involved in the annual Chocolate Festival, which the CFCC sponsors. She was a member of the founding board for this event and has served on this committee for 14 years. For the past two years, she has served as committee chairman.

Throughout her accomplished career, Ms. Luke has received numerous awards, among them the 1999 ATHENA Award honoring her efforts in fostering business leadership and assistance. Ms. Luke was also admitted into the DECA (Distributive Education Clubs of America) Hall of Fame for her assistance to Robinson Secondary School with their National Projects. Furthermore, in 1998, Ms. Luke's high standards and extensive contributions led to her selection as the Rotarian of the Year, and also as a Paul Harris Fellow in 1996.

Not only a dedicated community servant, Ms. Luke also is a loving wife and mother of two. While raising her family, she was able to make time to serve on the Family Services Board of Directors, as President of the Officers' Wives Club, and as a volunteer in the Red Cross during her husband's military career in the Air Force.

Mr. Speaker, in closing, I would like to extend my best wishes to Ms. Luke on her retirement from the Central Fairfax Chamber of Commerce. While I know that she will be greatly missed, her retirement is well deserved. Her significant contributions are much appreciated and greatly admired. I congratulate her on a job well done. I call upon my colleagues to join me in honoring Ms. Luke and in wishing her the best of luck in all future endeavors.

IN HONOR OF KATHLEEN KELLUMS—PRESIDENT OF THE BUSINESS AND PROFESSIONAL WOMEN OF OHIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Kathleen Kellums, as she is named President of the Business and Professional Women of Ohio. Since 1919, Business and Professional Women-USA, has served to support, promote and advance opportunity and equity for all women, in and out of the workplace.

Light years ahead of their time, the Ohio Federation of Business and Professional Women was instated in 1920, the same year that women finally won the right to vote. Today, as in 1920, this agency continues to build on a strong and brilliant foundation of support, education and guidance, focusing on women who were previously denied any opportunity to advance themselves personally or professionally. And even today, as women continue to rise above the stormy waters of gender inequality in the workplace, the Business and Professional Women exists to provide safe passages for women—pathways and bridges of support that help connect professional dreams to professional accomplishments.

A consummate professional in her own right, Kathleen Kellums continues to reflect accomplishment, leadership and tenacity throughout her professional endeavors. Her professional background includes executive positions in both the public and private sectors, and also includes significant community outreach contributions as a committed activist with many organizations, including the Parent Teacher Association and local Jaycee's. Ms. Kellums became a member of the Berea Business and Professional Women (BPW) in 1992, and currently holds the position of President. Her activism and leadership within the BPW has made a significant impact on the lives of many women by opening doors of opportunity and offering guidance, assistance and tangible support.

Mr. Speaker and Colleagues, please join me in honor and recognition of Kathleen Kellums, as she evolves from President of the Berea Business and Professional Women to President of the Business and Professional Women of Ohio. Her work as a state leader will serve to uplift the lives of countless Ohio women of all ages, as they journey toward advancing their professional and educational dreams—thereby advancing the progression of our entire community.

TRIBUTE TO MRS. ANGELA CINQUINO

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor the lifelong service of Mrs. Angela Cinquino. A dedicated civil service employee, Mrs. Cinquino has worked for City of Philadelphia Register of Wills Office for twenty-four years.

Mrs. Cinquino began her career with the City of Philadelphia in January 1980 as a Record Clerk II in the Register of Wills. For the next two and half decades, she provided Philadelphia with exemplary service as a Record Clerk III, Account Associate I, and Receptionist Clerk. In addition to her professional success, Mrs. Cinquino has remained involved in her local community by serving as a committeewoman for the past thirty years and serving as a member of Democratic Women for the past seventeen years.

Mrs. Cinquino will enjoy the fact that retirement allows her to spend more quality time with her wonderful family. I am sure that her husband Joseph, her two children Nicholas and Angela, and her four grandchildren, Nicholas, Noelle, Mia Nicollete, and Santino are all very proud.

Mrs. Cinquino will retire from the City of Philadelphia Register of Wills Office on May 19, 2004. In recognition of her years of service to the Philadelphia community, I ask that you and my other distinguished colleagues rise to congratulate her on her retirement.

COVER THE UNINSURED WEEK

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. WILSON of South Carolina. Mr. Speaker, last week was Cover the Uninsured Week, I rise today to salute an organization which is working to do just that, working to provide assistance to some of the 44 million Americans who can not afford health insurance today.

Dr. Dana Kuhn, President and Co-founder of Patient Services Incorporated (PSI), is a policy entrepreneur who thinks outside the box on how to provide health insurance coverage for those with chronic and catastrophic illnesses. PSI has successfully found a potential solution to this epidemic problem, which affects 44 million of our fellow Americans.

Since PSI was established in 1989, this national non-profit has worked with struggling

families afflicted with such disorders as Hemophilia, Alpha One Antitrypsin Deficiency, Colorectal Cancer and Breast Cancer, Crohn's Disease, and Immune Deficiencies, just to name a few. PSI assists by identifying health insurance policies as well as subsidizing the health insurance premiums and pharmacy copayments for these families. PSI is financially supported through private donations from individuals, pharmaceutical manufacturers, foundations, and other corporations and uses these donations to ensure affordable health insurance coverage for the uninsured and underinsured.

PSI has a 15-year success rate of putting the uninsured and underinsured back to work by providing a bridge from insecurity and disease to one of accessing affordable duality health care therapies. During its 15 years of existence, PSI has helped about 20,000 Americans. The PSI model works to provide Americans with millions of dollars worth of medical care for just 5% of the total cost of care.

PSI saves middle-class families from becoming financially devastated when they have a family member with an expensive chronic illness. It is the only non-profit of its kind providing health insurance premium assistance and pharmacy copayment assistance. In 2002, PSI received a positive Department of Health and Human Services Office of Inspector General Opinion for the work it does with Medicare Part B Copayments, Deductibles, and Medigap Premiums.

Mr. Speaker, I would like to take this opportunity to salute Dr. Kuhn and the staff of Patient Services Incorporated for their hard work and resourcefulness in developing a workable solution for the epidemic of uninsured Americans.

H.R. 3722, THE UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BARTON. Mr. Speaker, at the request of the Chairman of the Committee on Ways and Means, I would like to include an exchange of letters to be included as part of the discussion of H.R. 3722, the Undocumented Alien Emergency Medical Assistance Amendments of 2004.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, May 17, 2004.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BARTON: I am writing concerning H.R. 3722, the ''Undocumented Alien Emergency Medical Assistance Amendments of 2004,'' which was introduced on January 21, 2004, and referred to the Committee on Commerce.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning Medicare. Sec. 3 of H.R. 3722 waives the Emergency Medical Treatment and Active Labor Act (EMTALA), and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 3722, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, May 17, 2004.

Hon. BILL THOMAS,
Chairman, Committee on Ways and Means, 1102 Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your letter of May 17, 2004 concerning H.R. 3722, the Undocumented Alien Emergency Medical Assistance Amendments of 2004. Although this bill was referred solely to the Committee on Energy and Commerce upon introduction, I will be happy to keep you apprised of the status of this legislation.

As requested, I will include this exchange of correspondence in the Congressional Record on H.R. 3722.

Sincerely,

JOE BARTON,
Chairman.

HONORING SOPHIE R. HOFFMAN, PRESIDENT OF THE JEWISH COMMUNITY COUNCIL OF GREATER WASHINGTON

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Sophie R. Hoffman for over two decades of dedicated service to the Jewish Community Council of Greater Washington, including 2 years as their president.

Sophie R. Hoffman has worked tirelessly on behalf of the Jewish community, advocating Jewish interests, strengthening public support for Israel, building ties with other faith, minority, and ethnic groups and establishing a framework for social action.

While serving the Jewish community, Ms. Hoffman has enhanced the quality of life for those around her. She played a key role in securing over $2 million in grants for Jewish social service agencies, which provide for vulnerable citizens throughout Greater Washington.

For years, Ms. Hoffman has committed herself to strengthening public support for Israel. Her duties included presenting Cardinal McCarrick with a menorah to honor the heroes and martyrs of the Holocaust. This was then permanently placed on the campus of the Catholic University of America.

Furthermore, the Council has established and developed public school literacy programs under Ms. Hoffman's guidance. She has also been incredibly involved in preserving the principles of religious freedom in public schools and working to nurture a positive environment for the children. Her remarkable organization efforts have helped to create a framework for social action.

Throughout her accomplished career as a dedicated public servant, Ms. Hoffman has continuously demonstrated her vitality and commitment towards the Greater Washington community. Due to her contributions of time and talent, the diverse society is able to maintain its beauty while evolving to keep pace with the rapidly changing region.

Mr. Speaker, in closing, I would like to extend my best wishes to Ms. Hoffman on her retirement from the Jewish Community Council of Greater Washington. Her significant contributions are much appreciated and greatly admired. I congratulate her on a job well done. I call upon my colleagues to join me in honoring Ms. Hoffman and in wishing her the best of luck in all future endeavors.

IN HONOR OF JOHN DROTLEFF, CONDUCTOR OF THE WEST SHORE CHORALE AND ORCHESTRA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of John Drotleff—admired conductor, musician and friend, as he celebrates his Twentieth Anniversary of performing, leading and conducting the West Shore Chorale and Orchestra.

Beyond his exemplary work with the West Shore Chorale, Mr. Drotleff has taught music at several local colleges, middle schools and high schools throughout Ohio—consistently inspiring our youth to attain their personal best and allow their natural musical talents to shine through. Mr. Drotleff was Chairman of Fine Arts at Lakewood High School, and has been a faculty member with Hiram College for the past 6 years, where he conducts the Hiram College Choir and Hiram College Madrigal Singers. At Hiram, Mr. Drotleff teaches choral conducting, music theory and secondary choral methods.

Mr. Drotleff's college ensembles have performed in New York, Boston, Chicago, and Detroit, and most notably, they, have performed at the Kennedy Center and the National Cathedral in Washington, DC. Mr. Drotleff has also conducted the Youngstown Symphony Chorus and has served as a guest conductor for many musical groups throughout the northeastern United States.

Mr. Speaker and Colleagues, please join me in honor, recognition and gratitude to Mr. John Drotleff as he celebrates 20 years of leadership, inspiration and guidance as conductor of the West Shore Chorale and Orchestra. His remarkable ability to connect, inspire and uplift every member of his orchestra has significantly raised the level of musical offerings and has significantly increased public interest in every performance of the Chorale. An outstanding conductor, teacher and musical scholar, Mr. John Drotleff's love of music and strong confidence in his charges serves to draw the highest level of excellence from within the heart and soul of each performer. The lyrical and joyous concerto that personifies Mr. John Drotleff's life is a brilliant and treasured gift within our community that connects us through the universal language of music—uplifting our entire community on the wings of a song.

APPLAUDING THE MEN AND WOMEN WHO KEEP AMERICA MOVING AND RECOGNIZING NATIONAL TRANSPORTATION WEEK

SPEECH OF

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to congratulate Chairman YOUNG and Ranking Member OBERSTAR, for introducing H. Con. Res. 420, which properly applauds the men and women who keep our country moving—the American transportation workers.

There can be no doubt that the transportation sector is the most critical sector of our economy. We cannot produce or sell goods, agricultural products or raw materials if we cannot move them throughout our great land, or ship them overseas. And yet, despite the importance of these workers, they now find themselves under attack from within and without. But, their government has, at best, abandoned them in their hour of need. In some cases, the Federal government has actually joined in—and even led—the assault on their safety, their livelihoods and their rights.

Mr. Speaker, we can never forget that the very first victim on September 11, 2001 was a flight attendant, sliced by a box cutter our lax security measures allowed on board. And yet, three years later, these underpaid and overstressed workers find themselves fighting for proper security training and for safer conditions. Will we ever truly honor the dead of that infamous day as long as these citizens are at risk? And today, two years after it expired, the flight attendants of Southwest Airlines continue to work without a contract, victims of the alliance between management and the National Mediation Board (NMB), the agency responsible for administering the Railway Labor Act (RLA) which governs their work class. Management has refused to offer a new contract after the rejection of woefully inadequate opening offers. However, NMB has refused to declare an impasse, which would allow workers and the Transport Workers Union, which represents them, to move forward in exercising their rights.

And the Southwest Flight attendants are not the only victims of the recalcitrance of the NMB. Despite the fact that the current round of national rail negotiations is well into its fifth year for thousands of workers, the NMB has refused to move the bargaining process along in a timely manner. Specifically, the NMB has refused to "release" the International Association of Machinists (IAM) and the Sheet Metal Workers International Union (SMWIA) from mediation despite the fact that both unions have reached an impasse with management and further talks would be fruitless. It is intolerable for our government to force a rail worker to wait five years for a new collective bargaining agreement.

The NMB, whose three members are appointed by the President and confirmed by the other body, is responsible for providing bargaining and mediation assistance, and fostering productive collective bargaining between labor and management. The NMB's ability to either advance or delay labor-management talks is a power the agency should use fairly and with great care. The NMB is well known for touting its own record of having parties reach agreements without resorting to "self-help" such as strikes or lockouts.

In fact, the statute has survived since 1926 because it can work well if implemented fairly. But by failing to act on a release in the JAM and SMWIA case, the NMB is ignoring its own policy of expediting the bargaining and mediation process. Forcing employees and their unions to stay at the table well beyond the point of any productive negotiations frustrates the rights of workers and denies settlements within a reasonable time frame. The problems surrounding these excessive delays have little to do with the RLA, but rather with the manner in which the NMB administers the process. By failing to change the endless cycle of delay in rail bargaining, the NMB is denying basic due process. In other words, justice delayed is justice denied.

Mr. Speaker, I urge all of my colleagues to truly honor America's transportation workers by helping to make them safe on their jobs and secure in their contracts.

BURMA

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. SOUDER. Mr. Speaker, this week, the military dictators in Burma opened a "constitutional convention" whose purported aim is to establish democracy in Burma. Anyone who has followed the situation in Burma knows that the brutal dictators of the State Peace and Democracy Council (SPDC) are the last people who should be guiding the democratic process.

While on the one hand, the SPDC talks of democracy and peace among Burma's ethnic and political groups, it continues to terrorize these same groups, impress people into forced labor for the military, and imprison those working for democratic change. This constitutional convention is a deception designed to give the perception of democracy while maintaining maximum military control.

While the SPDC organizes its constitutional convention, the legal and duly elected leader of Burma, Aung San Suu Kyi remains under house arrest. Nearly one year ago, the SPDC engineered an unprovoked attack on Aung San Suu Kyi's motorcade as she traveled throughout Burma spreading her message of freedom and democracy. In the aftermath of the attack, she was taken into custody for her own safety—at least that is what the Burmese military wants us to believe.

Wherever she goes crowds gather to hear her message. Despite the danger of attending these rallies, the Burmese people do not care. Countless Burmese of all ethnic persuasions look to Aung San Suu Kyi as the very heart and soul of the Burmese democracy movement. The credibility and charisma of Aung San Suu Kyi cannot be denied; it cannot be sold; it cannot be bought. It comes only from standing up for what is right.

To be sure, the movement is bigger than one person, but Aung San Suu Kyi has led the forces of democracy in Burma for many years. On many occasions, she could have left Burma behind, but at great personal sacrifice, she has remained. She provides a shining example of standing tall and standing firm in the face of relentless opposition and hardship. And although she has been in prison or under house arrest for 9 of the last 15 years, her commitment to freedom, democracy, and a better life in Burma has never wavered and never faltered. She is the public face of thousands of men, women, and children who have suffered unspeakably harsh conditions and who remain prisoners in their own country.

As leader of the National League for Democracy, it would seem natural that Aung San Suu Kyi and NLD Vice Chairman Tin Oo, who is also in the hands of Burma's merciless thugs, would attend the convention. Shamefully, the SPDC has refused to release either freedom fighter before, during, or after the convention.

Equally regrettable is that the SPDC has refused to allow NLD offices to reopen around the country. The SPDC has also failed to clarify procedures of discussion and has limited the parameters for discussion. The convention is being held in grim isolation with limited access by outside observers. In short, the SPDC is so tightly controlling the convention that it would seem that the participants can only rubber stamp the SPDC's agenda. That is not democracy; that is dictatorship.

The National League for Democracy is boycotting the convention, and I support that decision. Participation in such an obvious fraud can only undermine all for which the NLD is working.

Democracy in Burma is a goal that cannot be compromised. The United States believes in that goal. American sanctions on Burma have had a profoundly positive impact over the last year. Reports coming from inside Burma and from groups knowledgeable about the situation in that country have praised the tough stance the United States has taken against the dictatorship in Rangoon.

Our tough stance is in danger of faltering unless the sanctions are renewed during this Congress. H.J. Res. 95, which has 46 bipartisan co-sponsors, approves the renewal of American sanctions and show our continuing commitment to freedom, liberty, and emancipation from tyranny. I urge all of my colleagues to fight for the passage of this important resolution.

If the daylight of freedom feels like it's a long way off, it will be even longer unless the United States stands side by side with Aung San Suu Kyi, the NLD, and the people of Burma struggling under the heavy yoke of oppression and cruelty.

HONORING THE SPIRIT OF CUBAN FREEDOM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. ROS-LEHTINEN. Mr. Speaker, 102 years ago, Cuba achieved its hard-fought independence from the tyranny of Spanish imperialism. This moment of triumph and relief ushered in a new era of freedom, a republican age. The ideals of self-government had trumped despotic rule, and all were captivated by the promise of enduring liberty. May 20, 1902 immediately assumed a profound significance for the Cuban nation, melding a fierce

passion for independence with a zeal for democracy. Indeed, May 20, paralleling America's own 4th of July, celebrates the same democratic fervor that Americans fondly recall whenever we reflect on our own sorely won freedom.

Unfortunately, the promise of a lasting and viable democracy would never be fully realized in Cuba. As we know all too well, the veil of ''freedom'' Fidel Castro promised with his Revolution soon descended into one of the worst tyrannies in modern history. July 26, a date sanctified by Castro as a symbol of his own political triumph, replaced May 20 as the new national holiday, wiping away all memories of democratic hope.

The Cuban people watched in stunned silence as they witnessed the dismantling of their republic and the institution of Marxist-Leninist totalitarianism. Soon the Soviet juggernaut had extended its iron fist across the ocean, marking the dawn of crushing religious, political, and artistic repression and the emergence of a culture of fear, theft, stagnation, and moral bankruptcy. After suffering countless state-sanctioned crimes throughout the decades, the indomitable will and courage of the Cuban people keep the hope of freedom and democratic change alive as an achievable goal.

Mr. Speaker, I proudly serve the cause of democracy as a United States Congresswoman, and continue the fight against the Castro regime and the oppression of the Cuban people. Ever cognizant of Cuba's plight, I feel compelled to call this oppression to your attention this day, May 20, 2004, a day representing freedom, and reminding us all of the tyranny that has usurped freedom.

Mr. Speaker, this 20th of May, liberty has once again eluded the Cuban people. Yet, I know that soon May 20th will once again stand as an affirmation of Cuban democracy, as a new birth of freedom, as a celebration of victory over dictatorship. Positive change will no doubt come, and we work toward it every day. I unite my thoughts and prayers with the Cuban people, and ask them to believe: a true 20th of May celebration is on the horizon—Cuba will once again be free.

TRIBUTE TO PRIVATE FIRST CLASS JESSE BURYJ

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. REGULA. Mr. Speaker, I rise to pay tribute to a dedicated soldier and citizen from my district in Ohio who gave his life defending our country. Private First Class Jesse Buryj (pronounced booty) died protecting a U.S. Army checkpoint in Iraq.

A graduate from McKinley High School in Canton, Ohio, he was a member of the marching band all four years and an outstanding citizen to his community. Growing up he served as a member of the Canton City Police Youth Corps with the lifelong dream of becoming a police officer in his hometown. Upon learning the age requirement to become a police officer was twenty-one years, he decided to join the army to serve his country until he could join the police force.

Pfc. Jesse Buryj served as a Military Police Officer for the Army and displayed great courage and dedication during his tour of duty. He died saving the lives of three of his comrades in Karbala, Iraq. He will be remembered as a hero to those men in Iraq and to all who knew him.

I would like to extend my deepest sympathy to his mother, father, sister, wife and all of his family and friends who are now mourning the loss of his life.

I pray for the safe return of all of our servicemen and women and thank them for the sacrifice they make every day defending our country.

HONORING COLONEL DEAN E. DETAR USAF (RET.) FOR HIS HEROISM AND LEADERSHIP

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. GRANGER. Mr. Speaker, I rise to honor retired U.S. Air Force Colonel Dean E. DeTar of Azle, Texas, for his combat heroism in Vietnam, and his leadership as National Commander of the Legion of Valor for the year 2003–2004.

The Legion of Valor of the United States of America, Inc. traces its heritage to the founding of the Medal of Honor Legion in 1890 by Medal of Honor recipients from the Civil War. In later years, recipients of the Distinguished Service Cross, Navy Cross, and Air Force Cross were made eligible for this elite organization, and those medals were authorized by Congress for extraordinary heroism in combat against enemy forces.

COL DeTar received the Air Force Cross for his extraordinary heroism in Vietnam on March 21, 1970, while leading a force of twenty-nine aircraft against one of the most heavily defended enemy locations in Southeast Asia to successfully rescue a downed airman.

COL DeTar's other U.S. decorations include the Silver Star; Legion of Merit; Distinguished Flying Cross with five oak leaf clusters; Air Medal with fifteen oak leaf clusters; Purple Heart Medal; and Air Force Commendation Medal, plus numerous USAF service medals and skill badges; and foreign decorations. COL DeTar will conclude his term of office as National Commander of the Legion of Valor by presiding over that distinguished organization's 2004 annual meeting to be held in Fort Worth, May 19–23.

Mr. Speaker, it is my great honor to commend COL Dean E. DeTar to my colleagues for his outstanding patriotism during his exemplary military career which included combat heroism in Vietnam. Since his retirement from active duty, he has shown devotion to the membership of the Legion of Valor and leadership as National Commander during the past year.

HONORING COLONEL FRANK S. VAJDA, MASON DISTRICT COUNCIL OF CIVIC ASSOCIATIONS MAN OF THE YEAR

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to congratulate Colonel Frank S. Vajda on winning the Mason District Council of Civic Associations' Man of the Year award. This special honor is truly well-deserved.

Colonel Vajda first relocated to Fairfax County following his retirement from the United States Air Force after 28 years. He quickly became active in both volunteer and community activities, demonstrating a strong commitment to improving Fairfax County. Currently a member of the Court of Camelot Civic Association, Colonel Vajda has also served the organization as president. Moreover, Colonel Vajda founded and continues to orchestrate Camelot's annual holiday charity fund drive in support of the Children's Hospital.

With community safety as a top priority, Colonel Vajda has served on the Camelot Neighborhood Watch Group for the past 15 years. As the organization's current coordinator, Colonel Vajda has tirelessly upheld the highest standards of care in the nation's oldest continuously active watch group. Furthermore, he organized and promoted the first park watch group at Pine Ridge, a local neighborhood park. Stemming from Mr. Vajda's efforts, the Park Authority, the Fairfax County Police, and the Rose Purple have effectively established the county-wide PARKWATCH system.

Since 1997, Colonel Vajda has notably contributed to the Friends of Mason District Park as a member of the Steering Committee. His other efforts include acting as a park volunteer for the Mason District Park Festival, the Spring Egg Hunt, and the Spotlight by Starlight summer concert series. Colonel Vajda's actions have ensured that all of these events were carried out in a safe and secure environment.

In 1998, Colonel Vajda was selected as the Mason District Representative to the Public Safety and Park Bond Referendum Committee. On this committee, his duties included speaking commitments informing county voters as to the purpose of the bonds during many speaking commitments. In 2001, Colonel Vajda extended the scope of responsibilities upon his appointment to the Park Authority Board. He continues to maintain the highest standards of service and dedication to this group.

Throughout his accomplished career of service, Colonel Vajda has received numerous awards including the 1998 Elly Doyle Park Service Award on the Pine Ridge Park Green Team.

Mr. Speaker, in closing, I would like to extend my heartfelt thanks to Colonel Vajda for his extensive service to the Mason District. His contributions and efforts are much appreciated and greatly admired. I call upon my colleagues to join me in congratulating Colonel Vajda on his award and in wishing him the best of luck in all future endeavors.

IMMIGRATION POLICY

HON. STEVE KING

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. KING of Iowa. Mr. Speaker, I wholly support an immigration policy designed to enhance the economic, social and cultural well-being of the United States of America. I am looking forward to working on immigration policy as a member of the Subcommittee on Immigration, Border Security, and Claims. I intend to carry out the responsibility for crafting the immigration and naturalization policy that was delegated to Congress by our Constitution.

Immigrants have made, and will continue to make, a valuable contribution to our Nation. I will work to develop an immigration policy that aids in the assimilation of newcomers by ensuring that the United States does not admit more immigrants than it can reasonably accommodate. Assimilation is valuable to immigrants who benefit from our shared American culture of personal responsibility, freedom and patriotism. The values shared by our civilization, founded on a heritage of western civilization, religious freedom and free enterprise capitalism, serve immigrants and native born alike. I am concerned that the recent rise in immigration levels in this country will make it difficult for newcomers to assimilate and find jobs. We must ensure cultural continuity for our great Nation.

As Americans, we should promote a naturalization process that promotes American values, the responsibilities of citizenship and our constitutional principles. We must be careful to admit only as many newcomers as we can accommodate with jobs so that our society will not be burdened by unemployed immigrants.

Candidates for naturalization should be proficient in the English language. Not only will English proficiency help newcomers attain better paying jobs, it also provides a means of communication with all Americans. For this reason, I have recently introduced the English Language Unity Act of 2003, H.R. 997 to declare English the official language of the United States.

Finally, as a sovereign nation, we must control our borders. We must ensure that terrorists do not infiltrate the United States. We must tighten and strengthen border control efforts so that illegal aliens do not enter our country. I support elimination of the visa lottery which gives randomly selected individuals visas, when many law abiding would-be immigrants are waiting to have their applications approved. I am also concerned about the enforcement of immigration laws within our borders.

I hope that this Congress will be vigilant in our oversight of the enforcement of existing immigration laws and make necessary changes to existing laws.

RECOGNIZING KATE A. SCANNELL, MD FOR HER ARTICLE ''DELIRIOUSLY DUMBFOUNDING DRUG DISCOUNT CARDS''

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. STARK. Mr. Speaker, I rise today to recognize Kate A. Scannell, MD for bringing to light many of the shortcomings of the Medicare drug discount card program. Dr. Scannell is not only a respected geriatrician in the Bay Area, she is also a noted medical ethicist and author. With years of experience delivering services to Medicare beneficiaries, there is no one more qualified to pass judgment on the Medicare drug card program than Dr. Scannell. I appreciate her honesty, and willingness to stand up and inform people in my district about the confusing and wasteful drug card policy.

It is with pleasure that I submit the attached article, ''Deliriously Dumbfounding Drug Discount Cards,'' for inclusion in the CONGRESSIONAL RECORD. The article originally appeared in the May 16, 2004 edition of The Argus (Fremont, CA).

DELIRIOUSLY DUMBFOUNDING DRUG DISCOUNT CARDS

(By Kate Scannell)

Medicare officials call it the ''drug discount card''—a code phrase referring to a small piece of paper that has the capacity to blow up your mind and destroy your sanity. These ''drug discount cards'' or ''DDCs''—also known as ''deliriously dumbfounding cards''—are supposed to offer pharmaceutical discounts between 10 to 25 percent to Medicare enrollees who have no prescription drug coverage. However:

The DDCs were launched last week when the federal government initiated its new ''discount drug program'' or ''DDP''—otherwise known as ''Doing a Darn Pittance'' about outlandishly high drug costs. While the official stated mission of the DDP is to make drugs more affordable for elderly and disabled Medicare recipients, in practice the system is cumbersome, confusing and inefficient.

The new program also smells like a political ploy during an election year. By giving Medicare enrollees a card to make it appear as though they had some control over out-of-control drug costs, the DDP functions to distract everyone from the root causes of excessively high drug prices: profit-driven pharmaceutical companies that wildly overcharge for medications, and a federal government that can't (or won't) help to control drug prices.

Here's how the new card system and drug program operate. The DDP requires that elderly or disabled Medicare enrollees first try to obtain ''the card.'' Here we encounter our first daunting hurdle, in that there exists not one but many cards from which to choose. Medicare enrollees must select a single card from among at least 40 companies and organizations that have been approved by the Department of Health and Human Services to distribute them.

Fortunately, all our elderly and disabled Medicare patients are tech-savvy, and they own personal computers equipped with Internet services which they can navigate freely for the necessary comparison shopping.

Those Medicare patients will also want to print out Excel spreadsheets to help them sort out the fine details, because each card provides different savings on different medications. And it would be wise to keep a copy of the spreadsheet in a readily accessible location, because the companies can change the prices of those drugs at any time.

I have heard nothing but disappointment, confusion, frustration and anxiety voiced by Medicare enrollees who are trying to make sense of the president's drug card program. Its inhospitable and labyrinthine structure defies the will and the capacity of people to negotiate it.

To make matters worse, the new Medicare Web site (www.medicare.gov) unveiled last month by the Bush administration contains substantial inaccuracies and errors. Proposing to offer helpful information about the DDP and drug price comparisons, the site was found to be riddled with erroneous information and incorrect prices. For example, a spokeswoman for Walgreen's reported that about half their drug prices were listed inaccurately. To rub more salt into the wound, the prices of drugs from Canada tended to run below those offered by the Medicare discount cards.

Finally, millions of Medicare patients will spend many precious hours trying to choose the best card and to decipher the DDP when the stunning fact remains that the entire program is scheduled to end in January 2006. At that point, we will be under the thumb of the disastrous Medicare Drug Bill—the subject of my first installment of ''Weapons of Medicare Destruction.'' In that piece, I wrote about the sweetheart deals our government made with the politically powerful pharmaceutical companies. Most notable and mind-boggling was our government's forfeiting its right to bargain with drug companies for price reductions on the drugs it offered through the Medicare program.

Further illustrating the unhealthy collusion between our government and the pharmaceutical industry, last week the New York Times reported that employees at companies that the Bush administration certified to distribute the drug discount cards already contributed almost $1.8 million to Republican candidates in this year's election. This included a $275,000 contribution to Bush's reelection campaign.

The drug discount card system exacts a phenomenal waste of effort and time and money that would have been better spent in a more cost-efficient manner by creating direct subsidies to Medicare recipients—like automatic rebate cards.

Still, we must be wary of any surface deceit offering ''discounts'' because it only masks the real problem: unregulated pharmaceutical costs that are driving our seniors into poverty or to Canada.

The fact is that ''discounts'' are easily ''discounted'' by the drug companies.

They can bump up the price of any drug and wipe out the effect of any apparent discount.

I urge everyone to become ''Armchair Activists'' and to contact their legislators by phone or e-mail to voice concern about prescription drug costs and our government's conflicted relationship with the drug industry. This is not a time to be ''discounted.''

HONORING CORPORAL WILLIAM A. SYDNOR

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and honor the Corporal William A.

Sydnor Veterans of Foreign Wars Post #3398, located in Willow Grove, Pennsylvania, on its 55 years of community involvement and dedication.

Since its beginning in 1939, Post #3398 has represented the efforts of an entire community. The building itself has changed several times, but the underlying spirit has never wavered.

Post #3398 has a long history of helping the community. The Post's involvement includes sponsoring several annual community events such as the Children's Halloween Party, the Senior Citizens Dinner, the Easter Egg Hunt, and Memorial Day Services. In addition, each year Post #3398 presents the William C. Purcell Scholarship to students planning to attend college. The Post now has four registered service officers to take care of the needs of veterans, widows, and the families of veterans.

Today the Corporal William A. Sydnor Veterans of Foreign Wars Post #3398 has grown from 36 Charter Members to over 250 members, and approximately 75 Ladies Auxiliary members. I wish the members of Post #3398 continued success and commend them for 55 years of service.

HONORING THE MEMORY OF LANCE CORPORAL JEFFREY C. BURGESS, USMC

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. DELAHUNT. Mr. Speaker, I rise today to honor the memory of Lance Corporal Jeffrey C. Burgess, USMC, who was killed on March 25 in an enemy attack near Fallujah, Iraq. He served his country with courage and dignity. There is no greater valor than sacrifice in the name of our freedom and national defense. LCPL Burgess and his family will always be in our prayers.

With deepest sympathies, Mr. Speaker, I submit to my colleagues this deeply moving letter written to LCPL Burgess by his mother, Michelle Shea, which was read at his funeral on April 5:

Dear Jeff,

I thought you might want to know what's happened since you left this world for a better place. As usual, life continues on, but oh SO DIFFERENTLY now. Just like you, I am wounded also. The mail still comes each day at the same time, but it now brings letters and cards full of comfort and love from many friends and family.

Jordon still comes up each morning and has his breakfast with me, delivering a big, dimpled smile and a big ''HI'' comes out of his voice, welcoming in another day with his Nana and Papa.

The other morning before he came upstairs, I was by myself wondering if I might get some kind of spiritual sign that you were okay and asking myself why I couldn't remember some simple things about you. Maybe that's the brain's way of protecting a grieving parent? I don't know.

The church asked me to think of saying some words at your service or maybe having a favorite hymn or song played. I tried, Jeff, but nothing would come to me. I tried ever so hard to concentrate in my quiet morning time alone, feeling so frustrated with myself—when I realized that my concentration was being disrupted by all the birds that were chirping from the trees in the backyard. I went to the back door to investigate why they were so worked up, only to find just ONE BIRD. There was a bright red CARDINAL perched on the highest limb trying over and over to get his message out loud and clear—over and over he sang to me.

Returning to my coffee and note pad, I realized that I had gotten the message. It was in the form of a familiar song, but I didn't know the title or artist. So, I sent Jen to the Mall in search of a song containing the words that I could think of, at the time. She returned with nothing, but on returning home she retrieved her mail, which contained some CD's she had previously ordered. Watching her open her package, I saw a confused look on her face, because she couldn't understand why TIME LIFE had sent her a 60's CD, when she'd ordered a 70's CD. All of a sudden there was a look of amazement on her face as she realized that the CD in her hand contained the very song we'd been looking for. Your song for us. We immediately played it, listening to the lyrics and realized that this was the message that you wanted to share with everyone. So, I'm carrying out your wishes, Jeff, and will make sure that it's heard by all.

Several more mornings have come and gone since you left and you still come to me each morning, in the form of a Cardinal perched high in the branches of our tree outside and singing your song. I feel better now, knowing you are still with me in the beautiful bird. I now know that you are okay.

In closing, I want you to know that you touched so many of us in so many ways, just in the short time you were here with us. And, although, I won't ever be the same person I was before, I'll go on thankful that you were once mine and that we'll be together again some day in heaven.

I'm gonna sign off now so everyone can hear that beautiful song that is the message from you. I'm sure they'll get what you are trying to say, but to be sure, I had it printed in the program for you.

I love you, Jeff; take care and be forever safe and at peace knowing your brother Marines will finish the job for you.

Love and Kisses,
Mom

GET TOGETHER

(The Youngbloods)

Love is but a song to sing
Fear's the way we die
You can make the mountains ring
Or make the angels cry
Though the bird is on the wing
And you may not know why

Come on people now
Smile on your brother
Everybody get together
Try to love one another right now

Some may come and some may go
We shall surely pass
When the one that left us here
Returns for us at last
We are but a moment's sunlight
Fading in the grass

*Come on people now
Smile on your brother
Everybody get together
Try to love one another right now

*(Repeat)
*(Repeat)

If you hear the song I sing
You will understand (listen!)
You hold the key to love and fear
All in your trembling hand
Just one key unlocks them both
It's there at your command

*(Chorus)
*(Repeat)
*(Repeat)

HONORING TROOPER FIRST CLASS ANTHONY JONES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. HOYER. Mr. Speaker, today, I pay special tribute to Maryland State Trooper Anthony Jones who was killed last week while on duty assisting another trooper. Trooper First Class (Tfc.) Jones every day exemplified the service and sacrifice that we honor in our law enforcement officers. As the recipient of awards for his valor and bravery, and as the anticipated recipient of the ''Top Cop'' award from the College Park Barracks this month, Trooper Jones demonstrated a commitment to public service and a sincere dedication to protecting and serving our community.

Tfc. Jones joined the state police after retiring from the U.S. Air Force in 1998. He spent his entire police career working as a road patrol trooper. He was on patrol when he stopped shortly after 2 a.m. to assist another trooper working at the scene of a single-vehicle crash in Prince George's County. Investigators said Jones crossed the four-lane highway on foot to remove a tire that was part of the accident debris and was making his way back across the road—using a flashlight to warn oncoming traffic—when he was struck and killed.

Every day, law enforcement officials like Trooper Jones risk their lives in dangerous situations on our highways and roads to protect the citizens who travel along our roadways. Last week we joined together in commemorating Trooper Jones and all of the law enforcement officers whose brave deeds led them to make the ultimate sacrifice, or left them disabled.

Trooper Jones is the 39th Maryland trooper to die in the line of duty, and we say a special prayer for his family, friends, and fellow officers of the Maryland State Police. The Joneses must know that a grateful nation mourns their loss and shares their pain.

We honor Tfc. Jones for his service to our country and to his community. I am confident that he will long be remembered with the utmost gratitude and respect. He willingly answered the call to duty, sacrificing his own safety for the safety and security of his community. We shall never forget that sacrifice and will bear witness to future generations the honor and courage Tfc. Jones exhibited as he served the State of Maryland.

Although we don't often thank them for it, officers like Trooper Jones help protect our most cherished rights as laid out by Thomas Jefferson in the Declaration of Independence: the right to life, liberty and the pursuit of happiness. We owe these fine and hard working people a great deal for their contribution to our freedom and security.

The words of John F. Kennedy strike a chord this week, ''a nation reveals itself not only by the men it produces but also by the men it honors, the men it remembers.'' As these valiant men and women died because they made it their duty to protect and serve, it is our duty to honor and remember them for their selfless contribution to our communities.

RECOGNIZING HOWARD MARTIN CHASE

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the significant achievements of Howard Martin Chase, the principal of Riviera Elementary School in Kelseyville, California.

Howard Martin Chase earned his Bachelors of Arts and Elementary Teaching Credential from California State University, Chico. Anxious to educate and serve, after graduation Mr. Chase became an elementary teacher in the Fairfield-Suison Unified School District.

Mr. Chase returned to school to pursue a postgraduate degree. He received his Administrative Services Credential in 1984 from California State University, Sacramento. He went on to serve as Principal at Kelseyville Primary School, Gard St. Elementary School and Riviera Elementary School. In 2003, he earned his Masters Degree in Education from Ashwood University.

It is not surprising that Mr. Chase is also very active in his community outside of his duties as principal. He has served as a board member of the Lake County Red Cross, acted as president of the Kelseyville Park Association, is a founding member of the Kelseyville Quality Educational Foundation and has served as chairperson for numerous committees for the Kelseyville School District.

Mr. Chase has also been involved in many fundraising events within Lake County. Through his efforts as an auctioneer, he helped raise over $1.5 million dollars for charities, schools and many nonprofit groups. He established the first Educational-Business Partnership in Lake County. This partnership between Lake County Schools and Konocti Harbor Resort and Spa has resulted in over $600,000 being donated to local schools.

Mr. Chase has already received several awards of recognition. The California State Senate named Mr. Chase the California Educator of the Year in 1996, and he was named Man of the Year for Lake County in March of 2004.

Mr. Chase is devoted to his family. He and his wife Pat have been married for over 20 years. They have one child, Jessica, and two grandchildren, Jenee and Aliyah. After the passing of his mother, Mr. Chase placed a sign in front of the school in her memory that says, "Welcome To A Place Where Everyone Is Special."

Mr. Speaker, because of the many contributions Howard Chase has made to his community, it is proper for us to honor him today as he moves on to his new position as superintendent of North County Joint Union School District in Hollister, California, and wish him the best in his future endeavors.

THE BUSH ADMINISTRATION MISSES THE BOAT ON RISING GAS PRICES

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. RAHALL. Mr. Speaker, an article in today's Washington Post, entitled "Bush's Handling of Gas Costs Criticized" by Jonathan Weisman, reports that not only Democrats, but also the President and Vice-President's former associates in the oil and gas industry are growing more critical of the Administration's inaction and lack of attention to the rising cost of gasoline. "The average guy on the street is getting killed because this administration does not care," said John Meade Huntsman, founder of the largest privately held chemicals manufacturing corporation in the U.S.

While I did not hold high hopes for the Bush Administration in general, I certainly thought that with two former oil executives running the country, the one thing they could get right would be the supply of affordable gasoline. But instead, America is heading into a long, hot summer of higher prices for the gasoline we use to get to work and to go on vacation. After all, this was an issue George W. Bush promised to make a high priority during his 2000 campaign for the presidency.

But, apparently, as with so many other promises, the President did not mean what he said about meeting the needs of Americans who depend on affordable gas prices to find work, get to work and provide for their families.

In March of this year, according to the American Automobile Association, the average price for a gallon of regular gasoline in West Virginia had increased to $1.72. At that time, I asked Attorney General John Ashcroft and Energy Secretary Spencer Abraham to launch an immediate investigation into whether price fixing is the cause behind skyrocketing gasoline prices. Now, less than 2 months later, the price has risen 27-cents to an average price of $1.99. One year ago, the average price was $1.54—that's a 50-cent increase over the last 12 months. This steep jump in price is severely affecting my constituents in West Virginia. Today, I add my voice to Senator ROBERT C. BYRD's request that the Federal Trade Commission review whether consumers are being unfairly squeezed.

So far, the Administration has done precious little to address the surge in oil prices. This past week, the price of oil reached a 13-year high. And these prices will continue to rise as fears and uncertainties rise over the Administration's ill-planned "regime change" in Iraq. Members of Congress have called on the Administration to suspend delivery of oil in-kind to the Strategic Petroleum Reserve and to bring greater pressure to bear on OPEC to increase oil supplies.

These near-term actions would have some beneficial effect. In the end, however, the Nation requires a serious, workable energy strategy. As Ranking member of the Resources Committee, I can say with confidence that neither the House nor the Senate has developed such legislation. Despite the President's continued call for an energy bill, his Energy Information Administration has concluded that a number of the provisions in the energy bills currently before Congress will have only a negligible effect on energy production, consumption or prices.

Certainly, there is a serious need to reduce our dependence on foreign oil sources. However, enacting legislation to open the ANWR or other environmentally-sensitive areas in the Rocky Mountains is not the answer. Instead, we should focus our efforts on developing alternative fuels and strategies. For instance, with an increased investment in energy efficiency, we can meet more of our transportation and other needs through the development of coal, renewable and other resources.

CONGRATULATING THE TYLER STREET BOYS TRACK TEAM

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. FROST. Mr. Speaker, I rise today to congratulate the Tyler Street Boys Track Team of Dallas, on their 2–A State Title. The Crusaders upset the two-time defending champions, Muenster Sacred Heart, to capture the title.

The Tyler Street Relay Teams won both the 4x200 and 4x400 relays, no doubt the result of hard work throughout the season. The Tyler street track team also finished in the top three positions in the field events, including a first place finish in the shot put.

This year's championship team includes members: Bobby Lewis, Darrian Sanders, Daunte Bornen, Jared Carter, Cshammah Reed, E.J. Rusher, Richard Solis, Britt Jones, Austin Alburtis, Freddy Holland, Nicholas Wright, Cjabrione Reed, and Joshua Carter. This year's team is coached by Walter Favors.

Mr. Speaker, I congratulate the Tyler Street Track team on their championship and also on a great season.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BECERRA. Mr. Speaker, on Monday, May 17, 2004, I was unable to cast my floor vote on rollcall Nos. 177, 178, and 179. The votes I missed include rollcall vote 177 on the Motion to Suspend the Rules and Agree to H. Con. Res. 420, Recognizing National Transportation Week; rollcall vote 178 on the Motion to Suspend the Rules and Agree to H. Con. Res. 423, Authorizing the use of the Capitol Grounds; and rollcall vote 179, on the Motion to Suspend the Rules and Agree, as Amended to H. Con. Res. 403, Condemning the Government of the Republic of Sudan for Its Attacks Against Innocent Civilians.

Had I been present for the votes, I would have voted "aye" on rollcall votes 177, 178, and 179.

SECTION 8 HOUSING FLEXIBLE VOUCHER PROPOSAL

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. ROTHMAN. Mr. Speaker, I rise today in opposition to the administration's proposed restructuring of the Section 8 Housing Program, particularly in regard to the block grant funding proposal, which is especially important to low-income men and women in my home state of New Jersey.

The Section 8 Housing Program currently assists two million individuals including elderly citizens, persons with disabilities, and low-income working families to meet their housing needs. The proposed Section 8 restructuring will leave states and local public housing authorities starved of the necessary financial resources they need to keep up with the demand for housing. Local housing authorities will be forced to either substantially raise rent or cut the number of vouchers distributed, severely hampering the program's effectiveness in helping Americans afford a safe and secure place to live.

Nationally, the Congressional Budget Office recently estimated that proposed changes to the Section 8 Housing Program will lead to the elimination of 600,000 vouchers by 2009, which equals thirty percent of all vouchers now in use. In 2005 alone an estimated 250,000 families could lose their housing assistance, including 7,181 families in New Jersey. For example, in Fiscal Year 2005, the Jersey City Housing Authority, located in my district, will face an expected $3,117,611 in funding reductions resulting in an estimated cut of 351 currently assisted families. The Housing Authority of Bergen County, also located within my district, expects a funding cut of $4,056,468, resulting in 434 families currently receiving assistance to lose their vouchers.

While losses such as these could be devastating to many families, several of my colleagues have argued the proposed restructuring is necessary in part to counteract escalating costs of the Section 8 Housing Program. Indeed, the cost of the Section 8 voucher program has increased, but these increases have been reasonable, legislatively driven, and impermanent. Over half of the growth in cost has resulted from Congressional decisions to increase the number of families the Section 8 Housing Program assists, often as a result of ending other federal public housing initiatives. Another 37 percent of the growth has resulted from an increasing gap between housing costs and the earnings of low-income families. In addition, the program has expanded because of efforts to improve its efficiency; the share of authorized vouchers rose from 90.5 to 96 percent between 2001 and 2003. Cutting the funding would, therefore, punish the program for more effectively achieving its objectives. Furthermore, the actual Section 8 Housing Program costs have risen at a low annual rate of only four percent, and the Congressional Budget Office expects future growth to slow markedly due to the cooling of the housing market, with an expected small 1.8 percent growth in fiscal year 2005.

Studies have shown that a large percentage of low-income families and individuals spend more than half of their income on housing, severely inhibiting their ability to meet other basic needs. Affordable housing is the foundation of economic self sufficiency, the loss of which is a barrier to employment that affects children, families, and entire communities. Cutting housing funding and reducing opportunities for American families to live in safe housing, will directly correlate with escalating costs in federal spending for welfare, crime, health, and homelessness in the coming years.

Mr. Speaker, I ask that we guarantee the Section 8 Housing Program an adequate level of funding by rejecting the administration's proposal. I hope that my colleagues will join me in taking preemptive action against escalating financial and social costs in the future by providing stable housing for our working poor today.

STATEMENT HONORING PFC. JOHN S. AMOS II

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great pride and honor that I rise today to pay tribute to an outstanding American, a true patriot, and a hero to his country, Army Pfc. John D. Amos II. Pfc. Amos died Sunday, April 4, 2004 while bravely serving in Operation Iraqi Freedom for the Army's 1st Battalion, 21st Infantry Regiment, 25th Infantry Division (Light), Schofield Barracks. He bravely sacrificed his life to ensure the safety of his fellow soldiers, the Iraqi people, and the very idea of freedom throughout the world.

Pfc. John Amos' unit was sent to the Tamin area of Kirkuk to set up a vehicle inspection point near the police academy. When his unit arrived, residents were conducting a demonstration in the streets surrounding the academy. With the streets cluttered by protesters, Amos' unit began inspecting vehicles and groups of people before they moved through the crowd. Amos was walking in a line of six soldiers when a car attempting to clear the checkpoint exploded. Pfc. Amos was posthumously awarded the Bronze Star and Purple Heart.

Pfc. Amos, a native of Griffith, Indiana, graduated from Valparaiso High School in 2002. Throughout his life, John always had the urge to protect his fellow man. In September 2001, John witnessed a fatal car accident. He tried to help the victim, called 911 and waited for help to arrive. The victim didn't make it and it affected John deeply. It's one of the reasons that prompted him to join the U.S. Army. After the terrorist attacks in 2001, John felt especially compelled to defend the United States.

John Amos is survived by his mother, Susan Amos, his father, John Amos, his sister, Rebecca Amos, two half-brothers, Hunter and Tyler Amos, his grandfather Hank Amos, and grandparents Doug and Lucy Whitehead. John's spirit and compassion will never be forgotten.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in honoring the memory of Pfc. John Amos, and in sending our heartfelt condolences to his family. John is a hero, not only to his family and friends, but also to Northwest Indiana and to the United States of America. He fought bravely for the ideals of freedom, truth, and liberty, and as our nation mourns his loss, let us honor his life and his dedication to the service of his country.

IN REMEMBRANCE OF BROWN v. BOARD OF EDUCATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. RANGEL. Mr. Speaker, I rise today in remembrance of the historical Supreme Court decision Brown v. Board of Education of May 17, 1954. The struggle against racial discrimination did not end with this decision nor has it ended today. Racial segregation in public places like restaurants and buses was still legal after 1954 and the Brown II decision of May 31, 1955 was a step backwards by allowing Southern district courts to integrate public schools "with all deliberate speed." But by declaring the segregation of public schools unconstitutional, the Supreme Court took a first step towards making the United States a society that lived up to its ideals of social equality, democracy and freedom.

The future of every country depends to a large extent on its children. Social values are conveyed to our youngest generation mainly by their parents, but also by their schools. Racial hatred and intolerance are products of a lack of knowledge and the fear of the unknown. Only schools that are racially mixed will increase children's understanding of each other, of other cultures and backgrounds. But today our country is drifting into the wrong direction. Our schools are more racially intermixed than in 1954 but less than in 1968, when our great national leader Martin Luther King was assassinated. While 43 percent of all black youngsters attended predominantly white schools in 1988, this figure has fallen to only 30 percent today. And Hispanic students are even more segregated than African Americans. My home state New York is among the most segregated states in the country and my district is particularly hardly hit. Minority students in my district still attend schools that perform worse than predominantly white schools.

While we should celebrate the historical event of the 1954 Supreme Court decision, let us keep in mind that racial discrimination and social inequality still exist in our country. Our education system still does not offer equal opportunities to all young people. Many schools are chronically underfunded. Let us celebrate the achievements of the civil rights movement in the past, but not forget that the biggest challenges still lie ahead.

MEMORIAL DAY

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. GOODLATTE. Mr. Speaker, shortly, we will be celebrating Memorial Day, a sacred

time of remembrance where we pay tribute to the brave men and women who have sacrificed their lives to protect the freedoms we hold so very dear.

I believe that it is especially fitting at this time to share a poem written by my constituent, Mr. Cordell A. Dickey of Roanoke, Virginia. Mr. Dickey is a veteran of Word War II where his unit was part of the division that invaded Guadalcanal on August 8, 1942. The poem was written in the Southwest Pacific in 1943 to honor a fallen friend, Hiram DiAlfordi, who was killed in New Caledonia in 1942.

The commemoration of Memorial Day will likely be a trying time filled with vivid memories of the son or daughter, husband or wife, mom or dad who will never come home. It is the hope of Mr. Dickey that his poem will bring comfort to the family of those who sacrificed for a cause greater than one's self.

LOST VIGILANCE

(By Cordell A. Dickey)

Twas here I stepped, here I fell, and here
On this far, unfriendly shore,
A dream was lost and shattered forever:
Leaving only fragments scattered on the sands.
To you who loved my life:
Whose heart knew pain when earth's cold bosom
Embraced and held me fast;
I would not have you grieve too much!
Sing no more sad songs for me . . .
Wipe away your last falling tear.
For when I quietly slipped into the void,
To keep with destiny my final rendezvous;
I did not fear to face Infinity,
Or plunge into a dark abyss.
To you who still have life:
Whose shattered spirit needs a healing balm
To make you whole again;
I would that you should know much joy;
Find new faith and hope again!
This above all:
Learn to laugh and sing again . . .
The world is filled with beauty.

COSPONSORSHIP OF HOMEOWNERSHIP TAX CREDIT LEGISLATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. BECERRA. Mr. Speaker, the low-income housing tax credit created by Section 42 of the Internal Revenue Code, commonly known as the rental credit, is responsible for the production of more than one million affordable housing units valued at over $100 billion since 1987. Because of its tremendous success, the Bush administration and a bipartisan group of Members have proposed the creation of a new credit modeled on the rental credit and targeted at creating affordable housing for purchase by low- and moderate-income families. Concerns have been raised, however, that a homeownership credit, not properly crafted, could have unintended, negative consequences on the highly successful rental credit and on the very low-income Americans who benefit from the housing produced by it.

Until today, these concerns have led me to withhold my support from H.R. 839, the ''Renewing the Dream Tax Credit Act,'' which was introduced early last year by the gentleman from Ohio, Mr. PORTMAN and the gentleman from Maryland, Mr. CARDIN. I have decided, however, that despite my continued reservations, I will add my name as a cosponsor today because the goal of increasing affordable homeownership opportunities is one I strongly support and a well-developed tax incentive could play an important part in that effort. Of course, I will work to ensure that the matters detailed below are considered carefully as the bill moves forward in Congress.

My prime concern is that the legislation when enacted not adversely affect the existing rental credit. How might this happen? Put simply, in the event that rental credits are less attractive than homeownership credits to equity investors, pricing for rental credits may fall and the program may be less effective in meeting the demand for high quality, affordable housing.

In addition, it is worth emphasizing that the affordable homeownership tax credit should be utilized in communities where a new subsidy is clearly needed to enable homeownership. In some parts of the country, the supply of new subsidized homes resulting from the credit's creation may endanger the economics of existing multifamily rental properties and cause the value of homes presently owned by low- and moderate-income households—the successful result of current affordable housing programs—to fall. We must be exceptionally wary of this possibility.

Mr. Speaker, in closing, despite the reservations I have raised that deserve continued analysis and deliberation, I am pleased today to add my name as a cosponsor of H.R. 839. Increasing affordable homeownership opportunities for my constituents and families across America has long been a top priority for me and this proposal can certainly help us work toward that goal.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

SPEECH OF

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. HERGER. Mr. Speaker, while I inadvertently missed the final vote on H.R. 3722, Roll Call Vote #182, 1 would have voted in favor of the resolution.

The Medicare and Prescription Drug Reform bill last year appropriated $1 billion over four years to pay state and local health facilities for the costs they incur in treating illegal aliens. Without denying health care to anyone appearing in the emergency room for treatment, H.R. 3722 would have required that local hospitals turn over information to the Department of Homeland Security about the illegal aliens they treat, as a condition of being reimbursed under the new program.

If hospitals chose not to do so, they would still be free to continue treating undocumented aliens. They simply wouldn't receive payment for these services.

Although H.R. 3722 was not approved, as a member of the House Immigration Reform Caucus, I will continue to work with others in Congress toward meaningful solutions to curb the trend of illegal migration to the United States.

TRIBUTE TO ROBERT L. HABUSH

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. BALDWIN. Mr. Speaker, I rise today to extend congratulations to Robert L. Habush. On May 24, 2004, the Milwaukee Chapter of the American Jewish Committee will bestow upon Mr. Habush the 2004 Community Service Human Relations Award at the Pfister Hotel. The Community Service Human Relations Award honors individuals who have demonstrated outstanding service and leadership. Mr. Habush has shown through his significant contributions to Wisconsin and the law that he is richly deserving of this award.

As anyone in Wisconsin can tell you, Mr. Habush has achieved a high level of professional success. He has practiced law for forty two years as a litigator, principally for plaintiffs, and over the years has been involved in some of the most significant cases in Wisconsin, as well as the development of the law. His law firm, Habush Habush & Rottier S.C., is well known in Wisconsin with its ten offices throughout the state.

Mr. Habush is widely admired for his philanthropy, including his strong commitment to the two law schools in Wisconsin. He has established the Robert L. Habush Bascom Professorship in Trial Advocacy and the Robert L. Habush Moot Court Advocacy Fund at the University of Wisconsin Law School. At Marquette Law School, he has funded a scholarship and a gift to create the Howard Eisenberg Memorial Hall.

Mr. Habush has also been honored by serving as President of the Wisconsin Academy of Trial Lawyers and President of The Association of Trial Lawyers of America. In 2001, he was named by the National Law Journal as one of the top ten litigators in the United States. In 2002, he received The Association of Trial Lawyers of America's highest award, The Champion of Justice. Mr. Habush has also been named as one of the top Wisconsin leaders in the law, by the Wisconsin Law Review. In honor of Mr. Habush's esteemed work, The Wisconsin Academy of Trial Lawyers has named its Trial Lawyer of the Year award after him, as well as The Association of Trial Lawyers of America naming their endowment in his honor.

Today, I join the Milwaukee Chapter of the American Jewish Committee in offering my sincere congratulations for receiving the 2004 Community Service Human Relations Award. Robert Habush is one of Wisconsin's best and I am proud to recognize him today.

TRIBUTE TO BOB ERICKSON

HON. JOHN KLINE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. KLINE. Mr. Speaker, I rise today to honor my friend and neighbor, Bob Erickson, and to recognize him on the occasion of his retirement from the position of City Administrator for the city of Lakeville, Minnesota.

Over the past 44 years, Bob Erickson has compiled a distinguished record of public service. He has been honored by such groups as

the Dakota Electric Association for his devotion to the people of Minnesota.

During his 15-year tenure as City Administrator, Bob helped transform a sleepy bedroom community into a thriving suburb with thousands of new jobs and thousands of new homes. Lakeville has benefited from his leadership and we owe him our gratitude.

Bob Erickson will be remembered for his undivided devotion to his community and his tireless work to ensure the citizens of Lakeville receive the best possible services from their city government.

The city of Lakeville thanks you, Bob, and so do I.

PERMANENT EXTENSION OF 10-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2004

Mr. HOLT. Mr. Speaker, I rise in strong support of making permanent the 10% tax bracket for low-income families. I am supporting the Tanner substitute because it, unlike the underlying bill, is paid for and does not drive our country deeper into debt.

The Tanner substitute, like H.R. 4275, makes permanent the change in our lowest tax bracket from 15% to 10%, and exempts from taxation the first $7,000 for single taxpayers and $14,000 for married couples. The Tanner substitute, however, requires that the funds needed to pay the tax cut do not come from Social Security and Medicare trust funds. Passing the Tanner substitute would help low-income families protect Social Security and Medicare while also helping eliminate the need to borrow from foreign banks to fund the federal government.

Mr. Speaker, today the national debt is the largest in history. Americans now collectively owe more than $7 trillion. That is $24,304 for every man, woman, and child. We have borrowed an additional $280 billion so far this year. The Majority would now like to borrow another $218 billion with the passage of this bill.

Here we have another tax cut that is not being paid for, even as the Bush Administration and the leadership of this Congress spend more than the American government has ever spent on homeland security and on all the other expenses of running the government—especially the huge costs of the war in, and occupation of, Iraq. The resultant borrowing places the burden of repaying our debts on our children.

I want the people of this country to realize that, right now, we owe collectively, in hard money, about $4 trillion to foreign countries. We owe Japan $607 billion; China (including Hong Kong) $205 billion; the U.K. $137 billion; Taiwan, $50 billion; Germany, $45 billion; OPEC countries, $43 billion; Switzerland, $41 billion; Korea, $37 billion; Mexico, $32 billion; Luxembourg, $26 billion; Canada, $25 billion—the list goes on and on.

More tax cuts without offsets will not only jeopardize critical public services now, but they will also hurt Americans well into the future. Massive deficits now create large debt and will create high interest payments that will crowd out spending on public investments for future generations. Moreover, these deep deficits threaten to increase interest rates in the future—making it harder for Americans to buy homes and afford higher education and making it harder for businesses to raise capital.

The President is pretending that we can have war without sacrifice. Eventually, someone has to pay. I believe Chairman Greenspan's recent comments are appropriate: ''Our fiscal prospects are, in my judgment, a significant obstacle to long-term stability because the budget deficit is not readily subject to correction by market forces that stabilize other imbalances. The free lunch has still to be invented.''

Now, we, all of us Americans, have to pay interest on the debt. We are literally squandering the wealth of this country by not paying for our tax cuts. The underlying bill is a good idea—keeping the lowest tax bracket at 10% helps all taxpayers equally. Unfortunately, by not paying for the tax cut, we are contributing to a far greater problem—the breathtaking fiscal irresponsibility that is going on here in this town.

A TRIBUTE TO ASIAN PACIFIC AMERICAN HERITAGE MONTH

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. LANTOS. Mr. Speaker, I rise in recognition of Asian Pacific American Heritage Month and to commend the millions of Asian Americans who have contributed so much to make this a great nation. I am fortunate to have the great privilege to represent the ethnically diverse 12th Congressional District of California that has one of the largest populations of Asian Pacific Americans in the United States and the largest population of Filipinos outside of the Philippines.

This month we celebrate the many Asian and Pacific Islander cultures that enrich our community. The Asian Pacific American community is quite diverse and includes some two-dozen distinct ethnic groups who came to this country from around the world. Their diverse cultures come together under a common umbrella and their presence in my community adds a wonderfully distinct flavor. I would be remiss to selfishly consider the impact on San Francisco and San Mateo alone, because the nation as a whole have benefited from the assimilation of the Asian Pacific American population.

We know the architecture of I. M. Pei and Maya Lin, we see the reporting of Connie Chung and Ann Curry, we listen to the music of Yo Yo Ma, we watch the movies of Lucy Liu and Pat Morita, we cheer Kristi Yamaguchi and Greg Louganis at the Olympics.

Our lives have been made easier with companies like Yahoo! Inc. and Computer Associates, founded by Jerry Yang and Charles Wang, respectively. George Artani wanted to make a better stereo system and succeeded when he founded, now the most popular electronics producer, Kenwood. Military life has also proven conducive to many in the community, and many have excelled. Major General Antonio Taguba exposed the Abu Ghraib prison abuse scandal, and General Eric K. Shinseki became the Chief of Staff for the Army in 1999.

The advanced strides can be measured in the heights reached by the public officials. In government we depend on the leaders like San Francisco Supervisor Fiona Ma, our distinguished colleagues in the Senate, DANIEL INOUYE and DANIEL AKAKA, U.S. Secretary of Transportation Norman Mineta, and here in the House of Representatives, my good friends from California, ROBERT MATSUI and MIKE HONDA. Sec. Mineta also represented California for 20 years before becoming the first Asian American to be appointed to a cabinet-level position when he was appointed Secretary of Commerce by President Clinton.

Our appreciation of their culture has come full circle. Today we celebrate, but in the not too distant past, racist and nativist sentiments met the newest immigrants with severe prejudice. Many who came faced strict quotas and unfair immigration laws, and suffered horrible prejudice and barbarous discrimination.

Following the attack on Pearl Harbor, we interned 114,000 persons of Japanese descent, whether or not they were citizens. In San Francisco, 7,800 Japanese Americans were rounded up, taken to the Tanforan Racetrack in San Bruno and housed in the stables. ''Relocation Camps'' were built, but as President Roosevelt's Secretary of the Interior Harold Ickes described them, they were nothing more than concentration camps.

Although interned by their country, many Japanese heroes fought for the freedom that their government took from them. The 442nd Regimental Combat Team was a regiment made up of persons of Japanese descent from the continental U.S. and Hawaii. The unit became the most decorated unit for its size in U.S. history. The Honorable DANIEL INOUYE earned the Medal of Honor fighting for the 442nd.

The Tydings-McDuffie Act of 1934 gave the Philippines its independence, but reclassified Filipinos as aliens rather than citizens, and reduced the amount of people who could legally immigrate to 50 per year. President Roosevelt used the Tydings-McDuffie Act to conscript the Filipino army into service against Japan. After fighting so courageously for our government, in 1946 Congress denied them the benefits that all other veterans received, especially disabled veterans. Today I am trying to correct this injustice and have cosponsored H.R. 664 to give Filipino Americans residing as a legal alien, or citizens of the U.S. the same health and pension benefits that all other veterans of World War II receive.

Since 1977, the month of May has been set aside to celebrate Asian Pacific American Heritage Month. This is the time that we can renew our focus on the problems that face the Asian Pacific American community, problems like affordable housing, immigration concerns, and racial profiling, and we can celebrate the accomplishments of the community.

I would like to thank my colleague Mr. MIKE HONDA for his leadership on the Congressional Asian Pacific American Caucus, and on H.R. 56, supporting the goals of the Japanese American, German American and Italian American communities in recognizing of a National Day of Remembrance, of which I am also a cosponsor.

Their vibrant community and array of perspectives have been firmly woven into the fabric of America. I am extremely proud to serve

so many Asian Pacific Americans as their Congressman.

TRIBUTE TO DR. HENRY N. TISDALE, PRESIDENT OF CLAFLIN UNIVERSITY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Dr. Henry Nehemiah Tisdale, the 8th President of Claflin University in Orangeburg, South Carolina. A native South Carolinian, Dr. Tisdale's commitment to higher education has enabled scores of students to achieve their dreams of a college degree. This year marks his 10th year as President of this esteemed institution, and I believe a good time to highlight some of his outstanding contributions to South Carolina's higher education community.

Born in Kingstree, South Carolina, Dr. Tisdale received a Bachelor of Science degree in Mathematics from Claflin University in 1964. In 1967, he was awarded a Master of Education degree from Temple University, and in 1975, received a Master of Arts in Mathematics from Dartmouth College. He later obtained a Doctor of Philosophy degree in Mathematics from Dartmouth College in 1978.

Dr. Tisdale's professional experiences include a twenty-four-year tenure as Senior Vice-President and Chief Academic Officer at Delaware State University, where he also served for a year as Assistant Academic Dean for Administration, Planning, and Information Management.

His vision and zeal to position his alma mater Claflin University as a premier institution in the Southeast is nothing short of extraordinary. Under his tutelage, the University has earned ''Top Tier'' and ''Top Ten'' ranking among comprehensive baccalaureate granting institutions in the South with U.S. News and World Report's ''America's Best Colleges 2003. '' He has increased enrollment by 60 percent, achieved national accreditation for Business Administration and Teacher Education, restored many of the campus buildings, and transformed the campus with the new Living and Learning Center and Legacy Plaza.

Dr. Tisdale has also been the recipient of numerous honors and awards including the National Association for Equal Opportunity in Higher Education (NAFEO) Distinguished Alumni Award, Who's Who Among Black Americans, and the National Association for the Advancement of Colored People (NAACP) Educator of the Year Award.

Mr. Speaker, I ask you and my colleagues to join me in commemorating Dr. Tisdale's ten years at Claflin University. He has blazed a trail in his community through education and service that continues to influence future generations and enhance the national reputation of South Carolina in the field of higher education. Not only are Claflin's students and faculty, friends and alumni fortunate to have a person of Dr. Tisdale's caliber at the helm of their institution, but South Carolina is also a grateful beneficiary of Dr. Tisdale's passion for public service, and I am personally proud to have him as a personal friend.

INTRODUCTION OF THE TECHNOLOGY ADMINISTRATION AND NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT OF 2004

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to introduce the Technology Administration and National Institute of Standards and Technology Act of 2004.

The National Institute of Standards and Technology (NIST) is a lynchpin to commercial activities of the private sector and the health and safety of all Americans—from its small-scale measurement activities that support the development of nanotechnology energy to its investigation of the collapse of the World Trade Center.

Lynchpins are noted for their reliability and criticality, and as such they are frequently overlooked until they break. That is the situation NIST finds itself in today. FY04 budget cuts are causing drastic cutbacks in NIST programs and causing NIST to lay off its employees. These reductions in NIST's budget and in its workforce threaten future U.S. competitiveness and the health and safety of Americans.

The bill I'm introducing today is an attempt to reverse this downward spiral. This bill would put NIST back on a positive growth track. It authorizes funding for NIST's standards support activities based on the FY05 budget request, and also includes funding for NIST's role in the implementation of the Help America Vote Act. The bill then provides a 5% increase for these support activities in FY06, FY07 and FY08. The bill also provides full funding for NIST to renovate its existing laboratory infrastructure. Many of NIST's labs are over fifty years old and are not suitable to house NIST's high-quality research equipment. This is especially true at NIST's Boulder, Colorado facility. This bill also provides full funding for the Advanced Technology Program (ATP) and the Manufacturing Extension Partnership (MEP) program.

The Science Committee has repeatedly heard from industry about the importance of funding for NIST's laboratory activities and for the ATP and the MEP programs. My bill is based on these recommendations.

Less than three weeks ago, the Science Committee held a hearing on NIST. Panelists included representatives from a chemical industry company, an information technology association, a biometric company, a nanotechnology company, and a fire safety association. They were all unanimous in their support for NIST and the need to increase its funding.

As one witness succinctly stated when asked about what other countries were doing in the standards area and what it meant to U.S. competitiveness: ''So the question becomes where do we want to place ourselves as a nation. Do we want to be the lead dog on the sled or do we want to be somewhere else in the line? And my perspective is that our nation's interest is served better and our future is served better and our people are served better if we are the lead dog on the sled.''

I urge my colleagues on the Science Committee and my colleagues in the House to support this legislation to help the U.S. remain the lead dog on the sled.

HONORING MARGARET PARKER FRETWELL

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. PORTER. Mr. Speaker, I stand today to honor Margaret Parker Fretwell. Mrs. Fretwell just recently celebrated her ninetieth birthday and it is my great pleasure to note that she is still working hard to better her community. Through her enjoyment of community service and a love for her family, Margaret Fretwell has made sure that her ninety years here on this earth have been spent in the service of others.

As an active member in her family, church, and community, she has become a symbol of service and charity. Those around her have been able to rely on her hard work and giving nature to promote charitable programs and educational events that benefit everyone in her hometown of Anderson, Nevada.

Mr. Speaker, it is my great privilege to stand here and honor Margaret Fretwell with my deepest thanks for her continued service and contributions to her local community. It is my hope that those that have been touched by her generosity will remember her example and use it in their own lives.

UNIVERSITY OF OREGON PHILANTHROPISTS ROBERT AND BEVERLY LEWIS

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. DEFAZIO. Mr. Speaker, I am pleased to recognize two important philanthropists who in their generosity to the University of Oregon are making a difference.

Robert and Beverly Lewis attended the University of Oregon in the 1940s. They deserve special recognition for their contributions to cognitive neuroscience. Robert and Beverly Lewis donated $10 million to the University of Oregon for its Brain, Biology and Machine Initiative and in doing so provided the philanthropic version of venture capital to grow this project into a world class center. I take a special interest in the Brain, Biology, and Machine Initiative, a research effort that brings together the university's top scientists in molecular biology, cognitive neuroscience, genomics, optics, and computational science to study how genetic factors affect brain development at the Robert and Beverly Lewis Center for Neuroimaging. It is a project that combines robust competitive federal grants, state support, private philanthropy, and congressional interest funds. It is already yielding compelling research and significant breakthroughs in our understanding of the mind and brain.

Thank you Bob and Beverly Lewis for your commitment to the University of Oregon. You are truly transforming lives.

INTRODUCTION OF THE PROPOSED NORTH MAUI COASTAL PRESERVATION ACT OF 2004

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. CASE. Mr. Speaker, I rise today to introduce the proposed North Maui Coastal Preservation Act of 2004, a bill directing the National Park Service to assess the feasibility of designating certain coastal lands on the north shore of the Island of Maui between the towns of Pa'ia and Sprecklesville as a unit of the National Park Service. This area is fully worthy of designation as a National Seashore, National Historic Park, or National Recreation Area.

Since assuming office as the representative for Hawai'i's Second Congressional District, I have heard loud and clear from the people of Maui, in person during countless times on the island and through petitions and postcards from some 2,000 constituents, about their deep concern for preserving this beautiful, historically significant and resources-rich coastline. Although the 128 acres identified in the bill are currently zoned as open space or parkland, they lie directly in the path of development in Maui's hot real estate market.

The desire of the people of Maui is to have the natural, scenic, and cultural resources of this unique area preserved and protected from development, and ultimately designated as the Patsy Takemoto Mink North Shore Heritage Park. As many of my colleagues know, my predecessor in this body, the late Congresswoman Patsy T. Mink, was born and grew up in Hamakua Poko, a small village near Pa'ia on just this coastline. If the Park Service finds that the area merits inclusion in the National Park System, I will introduce legislation authorizing establishment of a park and directing that it be named after Congresswoman Mink.

I want to take this opportunity to acknowledge the contribution of the Maui Sierra Club and especially of Lance Holter, a dedicated community activist, for inspiring the introduction of this bill. I can tell by the hundreds of cards I continue to receive from Maui residents in support of establishing such a park that there are many more people who have dedicated enormous energy and time in the hopes of preserving our precious natural and cultural heritage for future generations.

I urge my colleagues to join me in supporting this bill, and invite you to come to the Island of Maui to visit this special area. I know that if you do so, you will be convinced as I am of the vital importance of protecting these lands.

50 YEARS OF RFE/RL BROADCASTING OF BELARUS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. LANTOS. Mr. Speaker, May 20, 2004 will mark the 50 year anniversary of Congressional action which authorized broadcasting to Belarus. This is an anniversary, which I note with some regret. It is unfortunate that we still need to broadcast to Belarus, and it is unfortunate that democracy and freedom of speech have not made greater progress there.

The transition to democracy and genuine freedom of speech in the former communist countries has never been easy. Belarus, a former Soviet republic that regained its independence when the Soviet Union collapsed in 1991, is an exception when compared to its neighbors, such as Ukraine and Russia. Since elected President in 1994, Alexander Lukashenka has relentlessly curbed independent media outlets in Belarus. As his regime became increasingly authoritarian, leaders of the democratic opposition have disappeared; civil society activists have been routinely detained, beaten by Special Forces, imprisoned and fined by government courts; and numerous NGOs have been closed. Belarus is the only country in Europe where Radio Free Europe/Radio Liberty (RFE/RL) continues to broadcast as it did during the darkest days of the Cold war—exclusively from abroad and relying primarily on short wave radio.

Mr. Speaker, RFE/RL listeners in Belarus greatly appreciate this service provided by U.S. taxpayers. The atmosphere of fear does not stop people from expressing their feelings of gratitude and support. A priest from a regional town writes to RFE/RL: "When I listen to your programs I think that it is God who is speaking trough your waves to Belarusians." A listener from Minsk, the country's capital, writes: "Radio Liberty is doing more for democracy in Belarus than all the opposition taken together." A former member of parliament, Uladzimer Kudinsky, imprisoned by the Lukashenka regime, was listening to the RFE/RL Belarus service over a radio smuggled into prison and found out that due to international pressure he was to be released in a week. The ground breaking reporting of the RFE/RL Belarus service helped discover and document illegal arms deals between the Lukashenka regime and Saddam Hussein.

It is a tradition of the Belarus service to step in and give an outlet to those who the government tries to muffle—opposition leaders, journalists from banned newspapers and magazines, children from the only Belarusian language high school which was shut down by the authorities, and civil society activists who are harassed and arrested. For 50 years the FRE/RL Belarus service was the major and most popular independent voice from abroad broadcasting domestic and international news into a state-controlled media environment and it has been carrying out this mission with professionalism, courage and dedication.

Mr. Speaker, I invite my colleagues to join me in commending the Belorusian service of REF/RL for its persistence and professionalism on this 50th anniversary. The Belorusian listeners of the RFE/RL who tune in to its broadcasts, truly hear a "voice of freedom"—objective coverage of events within and outside of Belarus and, perhaps even more precious, a sense of solidarity with the world communities of democracies and hope for freedom for themselves.

TRIBUTE TO MRS. EVELYN ALETHIA BONAPARTE HAYNES

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Mrs. Evelyn Alethia Bonaparte Haynes, a native South Carolinian whose dedication to the education of all children—regardless of economic background or racial identity—shines as an example to all who love children. On June 23, 2004, would have celebrated her 91st birthday, and in commemorating her legacy, I believe it is important to highlight a few of the contributions that she made.

Born in Charleston, South Carolina, Mrs. Haynes attended Wallingford and Buist Elementary Schools and Charleston's Avery Institute. She later graduated from South Carolina State College—now South Carolina State University—where she received a Bachelor of Science degree in Elementary Education. In 1958, she received a Master of Arts degree in Elementary Education, Supervision, and Administration from Teachers College at Columbia University in New York.

Mrs. Haynes made significant contributions to the education of children through her dedicated service in a number of positions. She began her teaching career in Beaufort, South Carolina. In 1936, she was employed by the Charleston County Department of Education, now the Charleston County School District. She served as teacher and principal at Miley Hill Elementary School in Ravenel, South Carolina for 14 years. In 1964, she was appointed the Jeanes Supervisor for the Charleston County Department of Education where she served until 1967. It was during these years that I met and for three years worked in consultation with her. After desegregation of the public schools in 1967, she was the first African-American appointed to an administrative position in the Charleston County public school system. She became Assistant Personnel Director for the Charleston County Public School District and remained in that position until her retirement in 1974.

Retirement, however, did not quell her passion for service. In 1974, Mrs. Haynes was elected to the City of Charleston's Constituent School District #20 Board of Trustees and served in that position until 1978. She advocated for high academic standards, high-quality learning materials, smaller classes, competitive salaries, trained administrators, and parental involvement.

Mrs. Haynes received numerous awards, citations, and honors for her active membership in her church, her public service contributions, and her distinguished career in education. She has been recognized by the Charleston Branch of the National Advancement of Colored People (NAACP), by Shaw University, and by Miley Hill Elementary School for her achievements.

Mr. Speaker, I ask you and my colleagues to join me in celebrating the life and legacy of this venerable woman on what would have been her 91st birthday. She blazed a trail in her community through education and service that continues to influence future generations. This committed teacher from South Carolina has demonstrated with great fervor, her commitment to excellence and to the highest of

standards for the educational well-being of the children of South Carolina.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise today to express my opposition to H.R. 3722, the Undocumented Alien Emergency Medical Assistance Amendments of 2004.

First and foremost, I oppose the way this bill was brought to the floor. There have been no committee hearings or markups. Instead, the bill was rushed to the floor under suspension so that no amendments could be offered to. the bill. There has not been any proper debate on this piece of legislation.

Studies have estimated that there are between 8–12 million illegal immigrants in the country. Hospitals throughout the country, but particularly in border states, are overcrowded and often cannot afford to provide vital services to their patients. The Medicare bill which recently became law provided for a total of $1 billion over four years to reimburse hospital expenses incurred by providing medical services to illegal immigrants. While the Medicare bill does not mandate the use of the reimbursement program, many hospitals depend on these funds simply to remain open.

The Undocumented Alien Emergency Medical Assistance Amendments will require further paperwork to be done by doctors and nurses in hospitals who are already overworked and overburdened. These doctors and nurses are not trained to enforce immigration law and should not be expected to do so. We should not use hospitals to fight the influx of illegal immigration but rather should provide more resources to law enforcement so that they can better enforce immigration laws.

This bill also has the potential to discourage illegal immigrants from seeking treatment for life-threatening conditions. Immigrant women who become victims of domestic violence may not seek help for fear of being deported. Pregnant women may not seek prenatal care or even go to the hospital for the birth of their children out of fear of being separated from their families and deported. It is likely that this bill will actually increase the cost of emergency services because illegal immigrants are more likely to wait until their conditions have worsened and require more expensive treatments.

Doctors and nurses create important trust-based relationships with immigrant communities which may be broken if this legislation is enacted. Discouraging immigrants from seeking medical assistance will have ill effects on our public health as well. Without proper treatment, communicable diseases such as tuberculosis are likely to spread and cause a much larger public health hazard.

I also have many concerns about requiring doctors and nurses to ask so many questions of their patients. It is not always possible or practical to ask such questions of every patient who enters the hospital; as a result, doctors and nurses might have to pick and choose those they ask, opening themselves up for accusations of profiling and possible legal recourse. This also may slow the delivery of medical treatment, as patients will have to provide documentation of their citizenship or immigrant status.

These are just some of the concerns this bill raises, and none of them has been adequately discussed. H.R. 3722 clearly is controversial and thus deserves to be properly debated on the floor, with amendments allowed to be offered. For all the reasons I've outlined, I must vote against suspending the rule and passing this bill, and I urge my colleagues to do the same so that H.R. 3722 can be considered under normal procedures.

POEM FOR A SOLDIER'S WIFE

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. DAVIS of Tennessee. Mr. Speaker, I am going to read a poem written in honor of the wives of soldiers, specifically for Betty Calabrese whose husband, Master Sergeant Robert Calabrese, just returned from a tour in Iraq. The poem was written by Lt. Commander Don Flanagan, U.S. Navy, Retired.

ONE SOLDIER'S WIFE

If she could take the time today to sit and stare
She would find her emotions ranging from hope to despair So long ago her life was filled with daily chores
With joys and sorrows in and out like revolving doors.
In the early years of serving his country she was so proud And anyone can tell you she certainly said so out loud
As a member of the National Guard he was called up each year When he went to Vietnam and Kosovo she was filled with fear.
Fast forward to that terrible day in September 2001
She knew the dangers to him would increase one by one. The talk of terrorists became much more intense
Until President Bush said that we would help the people of Iraq in their defense.
Too soon the day came for him to go
And as a soldier's wife she knew the dangers would grow. The military promise of a limited tour did not come true. Time passed with no firm planning to do.
In mortal combat he has comrades to stand by his side But who really there for his worried and burdened bride? Although family and friends say that they understand They do not know unless a spouse had to fight for this land.
What does the war mean to you and me?
Only a distraction or an interruption of a program on TV.
Yet to her it is crying, despair, not knowing of a dead soldier and who it might be. In spite of all she rallied her church members to pray for all to return safely.
Is there anything we can say or do but Just realize how simple the challenges we go through. Let us now allow her an extra fault or two
And most of all pray God to help her in all she must face and do.

PAYING TRIBUTE TO LEO LARGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Leo Large and thank him for his exceptional contributions to his community and the State of Colorado as a Montrose County Commissioner. A two-term commissioner, Leo will always be remembered as a dedicated public servant and leader of his community. As Leo celebrates his retirement, let it be known that he leaves behind a terrific legacy of commitment to the people of Montrose County and the State of Colorado.

Born and raised in La Juanta, Colorado, Leo is a lifelong farmer and rancher who served his country proudly from 1950 to 1953 in the U.S. Army. His intimate knowledge with agricultural issues and dedication to his community later took him into a career in public service. For 16 years he served as vice-president for the Montrose County Farm Bureau Board, represented District 9 for the Colorado Farm Bureau, and served as chairman of American Farm Bureau Natural Resources for 9 years. As a county commissioner, he served on the Montrose Airport Advisory Board. Some of the other numerous boards and committees Leo served on and or chaired include Club 20, C.S.U. Task Force, Society for Range Management Board of Directors, National Public Lands Committee, Water for Colorado Task Force, and the Region 10 Transportation Board.

Mr. Speaker, I am honored to pay tribute to Commissioner Leo Large before this body of Congress and this Nation, and to congratulate him on an outstanding career of public service. His selfless dedication to his community and the people of Colorado as a Montrose County Commissioner is truly remarkable. I wish him and his wife Mickie all the best in their future endeavors. Thanks for your service.

MALCOLM X WOULD HAVE BEEN 79 TODAY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to a revolutionary African-American leader, Malcolm X, who would have turned 79 today, May 19, 2004. Malcolm X is recognized in my community and several others as a hero. His contributions towards racial and social equality will never be forgotten, thus his legacy still exists today.

Malcolm X's life was cut short when his influence as a political leader was reaching its pinnacle. Although his ability to leave a clear institutional legacy was thwarted, his influence was and continues to be wide reaching. Malcolm's religious and social transformation is something to be recognized and emulated.

Malcolm X played a pivotal role in American and African-American history. He helped shape the course of the Civil Rights Movement and the path for equal social justice. Let

us never forget the positive legacy Malcolm X left behind. On this day, May 19, 2004 let us all wish Malcolm X a Happy 79th Birthday.

PAYING TRIBUTE TO FRANK DANIELS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, it is a privilege to rise today and pay tribute to Frank Daniels and thank him for his outstanding commitment to serving the people of Colorado as District Attorney for the 21st Judicial District. As he celebrates his retirement, let it be known that he leaves behind a wonderful and strong legacy of dedication to the District Attorney's Office and the citizens of Colorado.

Appointed by Governor Ray Romer in 1993, Frank was elected three times to serve the position of District Attorney. In 1982 he graduated from Colorado University Law School, and from 1983 to 1993 he served as Deputy District Attorney and then Chief Deputy District Attorney for the 1st Judicial District. During his tenure in the District Attorney's Office, he handled thousands of cases of all varieties, including the well-known Blagg murder trial. He has also implemented many programs through the District Attorney's Office, including the Intensive Juvenile Diversion Program, Adult Diversion Program, and the Consumer Crime Program. A dedicated member of the community, Frank served as President of Mesa County Peace Officers Association, Western Slope Center for the Children, and the Grand Junction Gem and Mineral Club.

Mr. Speaker, it is clear that District Attorney Frank Daniels has ceaselessly dedicated his time and efforts to serving his district and the people of Colorado in the District Attorney's Office for the 21st Judicial District. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service Frank, and I wish you all the best in your future endeavors.

RECOGNIZING THE SOUTHWEST GUILFORD GOLF TEAM

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. COBLE. Mr. Speaker, I am very pleased to recognize the Southwest Guilford golf team for their terrific talent and teamwork which resulted in a state championship on May 11, 2004. It is my honor to congratulate the Southwest Guilford golf squad from the Sixth District of North Carolina for their victory and remarkable team effort in the state 3A golf tournament. Led by Head Coach Don Dixon and assistant Larry Rice, the Cowboys were able to work together and capture the title. Special congratulations to Matt Dowdy, Shawn Hardesty, Greg Williams, Will Duke, T.J. Christensen, Andrew Smith, Taylor Radison, Tyler Smith, Drew Hilliard, Andrew Chakasem, and Wes Swaim for their efforts.

As team leader Greg Williams told the High Point Enterprise, "We knew to stay more focused on golf this season, and not worry about having too much of a good time." The Cowboys dedication proved to pay off which should not only bring pride to Southwest Guilford, but to the entire Sixth District. T.J. Christensen, who played another vital role on the team, fought through injury with a broken bone in his hand to finish the year and contribute to the state championship. This was a clear example of the dedication exhibited by the Cowboys golf team.

Congratulations to Principal Arthur Legrand and Athletic Director Brendan Christen. This was a remarkable season of golf for the Sixth District. I am very proud of these young men and wish them the best of luck for the future. We are looking forward to more impressive play in the years to come.

PAYING TRIBUTE TO ROY CRAIG

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to the life of Roy F. Craig, an extraordinary American and distinguished scientist, who recently passed away at the age of seventy-nine. For the past twenty-five years, Roy enjoyed life on his La Boca Ranch outside of Ignacio, Colorado, where he took an active role in community issues, particularly land use. As his family and community mourn his passing, I believe it is appropriate to recognize the life of this exceptional man, and his many contributions to his community, state and country.

Roy F. Craig was born May 10, 1924 on his parent's homestead on the Florida Mesa. Upon graduation from Durango High School, Roy attended Fort Lewis College, but left his studies to serve in the Army during the Second World War. After the war, he resumed his studies and earned his doctorate in physical chemistry from Iowa State University. During his professional career he taught at the University of Colorado, founded the Four Corners Research Institute, and served as a visiting professor at the University of Hawaii and at Ponape, an island in the South Pacific.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to recognize the life of Roy Craig. He dedicated his life toward the betterment of his community, state and nation, and he will be greatly missed. My thoughts are with his loved ones during this difficult time of bereavement.

COMMENDING THE PEACEKEEPING EFFORTS OF THE TROOPS FROM EL SALVADOR IN IRAQ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to commend the brave troops from El Salvador who are participating in the peacekeeping operations in Iraq. Their bravery, honor, competence and professionalism are playing a critical role in the creation of a free and democratic Iraq.

The Salvadoran peacekeepers have been doing remarkable work delivering humanitarian relief and reconstruction assistance in Iraq. These peacekeepers have provided supplies, electricity, books, and playground equipment to impoverished schools as well as delivering aid to local farmers. However, Iraq remains a dangerous place for those who are contributing to the liberation of Iraq. The hazards of this important task were apparent on April 4, 2004 when the Salvadoran soldiers encountered armed resistance around Najif.

On April 4, 17 Salvadoran troops bravely stood their ground in the face of overwhelming opposition from the armed followers of Sheik Muqtada al-Sadr. In the face of mounting injuries and certain defeat, at one point fighting when 12 of the 17 were wounded and one had died, the Salvadoran soldiers never stopped fighting. Fortunately, a relief unit arrived to join the fight and rescue the Salvadoran troops.

The brave deeds of these valiant few will be remembered by all. Mr. Phil Kosnett, who leads the Coalition Provisional Authority in Najiv, described the Salvadoran troops as "the bravest and most professional troops I've ever worked with."

Tragically, PVT Natividad Mendez perished on the field of battle. He will always be in our hearts and prayers.

Mr. Speaker, it is imperative that we recognize the enormous efforts of every nation and every troop serving in Iraq. The world has arrived at a momentous turning point. If Iraq can become a stable democracy the world will have changed for the better. El Salvador and the Salvadoran troops in Iraq recognize the importance of this moment and are acting to ensure that Iraq is transformed from a terrorist state into a free and democratic nation. They will always have our profound gratitude.

PAYING TRIBUTE TO RUTH HULSEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Ruth Hulsey for her selfless dedication to her Pueblo, Colorado community. A lifelong coach and teacher, she is a pioneer in Colorado sports, helping to establish girls' high school athletics in school district 60 in 1971. It is Ruth's determination and love of sports and her community that enabled her to help shape the history of athletics in Colorado.

A lifelong native of Pueblo, Ruth graduated from Centennial High School in 1947. Although there were no female scholastic athletics programs at the time, she found a way to compete, as her marksmanship earned her a spot on the rifle team. While attending Colorado State Teachers College, she participated in hockey, soccer, basketball, swimming, tennis, and volleyball. After graduating with a degree in physical education in 1951, Ruth began her teaching career at the Keating School in Pueblo.

Her dream for female athletics finally came to fruition after several years of effort and planning in 1971. That year she coached gymnastics, tennis, and track and field at Centennial High School, taking the relay team to the

state track meet in their first season. Ruth moved to East High School in 1981, where she taught and coached swimming until her retirement in 1989. In 1983, she became only the fourth woman inducted into the Greater Pueblo Sports Association Hall of Fame.

Mr. Speaker, it is my privilege to pay tribute to the achievements of Ruth Hulsey before this body of Congress and this nation, and to thank her for her contributions to the great tradition of athletics in Colorado. Her efforts to instill the love of sport in the youth of her community is truly commendable. I wish her all the best in her future endeavors.

THE MEDICAL LIBRARY ASSOCIATION AND THE ''E-REACH PROJECT'' IN ILLINOIS 7TH CONGRESSIONAL DISTRICT

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to announce to my colleagues that the Medical Library Association will hold its Annual Meeting in Washington, D.C. on May 22–May 26. Headquartered in my congressional district in Chicago, MLA is a nonprofit, educational organization of more than 900 institutions and 3,600 individual members in the health sciences information field, committed to educating health information professionals, supporting health information research, promoting access to the world's health information, and working to ensure that the best health information is available to all.

The advancement of information technology holds great promise for dramatically increasing the delivery of health care to underserved communities across the country and throughout the world. Medical librarians and health information professionals play a key role in the delivery of quality health care services by facilitating access to web-based health care information and telemedicine services. Despite the value of electronic-based health information, a recent needs assessment survey conducted by Loyola University Health System, the Loyola University Health Sciences Library and their Pediatric Mobile Health Unit highlighted the fact that 60 percent of respondents in the predominately minority communities of Bellwood, Maywood and Cicero, IL had not used the Internet to access health care information. Moreover, 80 percent of respondents had never consulted a librarian to help them find health related information.

In response to these findings, the Loyola University Health System, Loyola University Health Sciences Library, and Loyola University Health System Mobile Health Unit have developed a project designed to strengthen and enhance access to health information among underserved and under-represented populations in Maywood, Bellwood and Cicero. The E-REACH (Electronic Realtime Education Aiding Community Health) initiative will provide ''on demand'' health information to patients and families served by the Loyola University Health System Mobile Health Unit and Loyola Children's Center. The program will focus on expanding electronic access to health information at the point of patient care, promoting the use of health information by physicians and other health workers involved in the project, increasing patient awareness of health insurance programs and other health information resources, and increasing awareness of electronic health care information for individuals with Internet access.

The E-REACH initiative is partially funded by a grant from the National Library of Medicine (NLM) and is an excellent example of how the NLM has taken a leadership role in promoting educational outreach to underserved populations as part of an ongoing effort to reduce health disparities among large sections of the American public. NLM currently funds over 280 outreach projects, with at least one such project in every state.

I congratulate all those involved in this promising new initiative, including the project director, Dr. Logan Ludwig, Associate Dean of Library Services and Telemedicine at the Loyola University Health Sciences Library. It is my hope that the E-REACH program will serve as a model for other communities seeking to expose the benefits of health information services to medically underserved and minority populations.

Mr. Speaker, I ask my colleagues to join me in welcoming the Medical Library Association to Washington for their Annual Meeting, and recognize the invaluable contribution that health information professionals make to our nation's health care system.

PAYING TRIBUTE TO KEN NESBITT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute to the life and memory of Ken Nesbitt, who recently passed away after sustaining fatal injuries in a motorcycle crash. I personally knew Ken well, and he was a devoted family man, a dear friend, and a beloved member of his Grand Junction, Colorado community. As his family and community mourn his passing, I believe it is appropriate to recognize the life of this exceptional man, and his many contributions to his community and state.

After graduating from Arizona State University in 1968, Ken served our nation for five years as a Navy pilot where he was selected for the Apollo 16 Recovery Mission. In 1973, he moved back to Grand Junction where he joined the family construction business that his father started in 1954. He took over the business in 1977 at age twenty-eight, and his strong leadership and business acumen saw the company grow into an industry leader and a vital asset to the community. Due in large part to personally donating land and the resources of his business, he made sure the Grand Junction/Mesa County Riverfront Project was completed, which Grand Junctionites still enjoy today. For his efforts, Ken received the Outstanding Citizen of the Year Award by the State of Colorado Parks Board, and his company received an award for Reclamation Project of the Year for Greenbelt.

One of the most dedicated, hard-working, and likable people that I have ever known, Ken has made a lasting impact on Grand Junction and the State of Colorado. He helped found the Grand Junction Economic Partnership and was a president and board member of the Grand Junction Chamber of Commerce. He was a trustee on the Board of Directors for St. Mary's Hospital and sponsored the Winter Sports Clinic for the Vietnam Veterans of America in 1993. He also served on the board of numerous civic and business organizations, including the Colorado National Bank, Riverfront Commission, Mesa County Economic Development Council where he also served as chairman, and the Grand Junction Lions Club. Above all, Ken was devoted to his beloved wife JoAnn, sons Chris and Jeff, and daughter Ashley.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the life and memory of Ken Nesbitt. I am proud to have known such a great man who enriched the lives of his family and community. My heart goes out to his family, friends, and Grand Junction community during this difficult time of bereavement. Ken, we will miss you.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. SHAYS. Mr. Speaker, on May 18, I was returning to Washington from the World Economic Forum in Amman, Jordan and, therefore, missed three recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted ''yes'' on recorded vote No. 180, ''yes'' on recorded vote No. 181, and ''no'' on recorded vote No. 182.

PAYING TRIBUTE TO JENNY INGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Jenny Inge of Creede, Colorado, on being recognized by the Creede-Mineral County Chamber of Commerce as their 2004 Employer of the Year. The award recognizes an employer who has shown an exceptional devotion to the community and to promoting the local economy. This award is a well-deserved testament to her achievements.

Jenny is the proud owner of Rare Things, a business that sells fine jewelry, antiques, and various works by artisans. In addition to running the business, Jenny also creates many of the fine pieces of jewelry and art displayed in the store. The business has been a success in the community for thirty years, and is Creede's largest year-round employer. The success of the business can be credited to the creative and open environment Jenny creates, as well as her entrepreneurial skills in attracting tourists and other customers to Creede. Her civic involvement and dedication to Creede includes the Mineral County Gem and Mineral Show, and her work with the Mineral County Fairgrounds.

Mr. Speaker, I am honored to pay tribute to the service and achievements of Jenny Inge before this body of Congress and this nation. Her efforts to strengthen her community are truly remarkable, and the recognition she received from the Creede-Mineral County Chamber of Commerce, as their 2004 Employer of the Year, is a well-deserved testament to her tireless efforts. I sincerely thank Jenny for her service, and wish her the best in her future endeavors.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 2004

Mr. MOORE. Mr. Speaker, I rise today in opposition to H.R. 3722, which I believe poses a significant threat to the health of all Americans. If H.R. 3722 is enacted, the fear of deportation will inevitably discourage undocumented immigrants from seeking care for potentially communicable diseases. As a result, serious health problems will likely go untreated and unreported with serious negative consequences to the health of entire communities.

In addition, numerous hospital and local government organizations have told Congress that the reporting and record keeping requirements included in H.R. 3722 will not only place a serious administrative burden on already overburdened hospitals, but also harm the relationship of trust between health care providers and their patients. This will undermine health care providers' basic and vital mission—tending the sick and injured. I would like to include in the RECORD a letter in opposition to H.R. 3722 I received from El Centro, an organization in my district dedicated to family improvement.

Like many of my colleagues, I am dedicated to continuing to seek solutions to the challenges we face in our immigration policy. I have supported multiple efforts to strengthen our immigration and border patrol systems. I do not believe, however, that denying emergency health care to those critically in need is consistent with the successful curbing of illegal immigration.

EL CENTRO, INC.,
Kansas City, KS, May 7, 2004.

Congressman DENNIS MOORE,
Cannon House Office Building,
Washington, DC.

CONGRESSMAN MOORE: El Centro, Inc. sincerely hopes that you will oppose Representative Dana Rohrabacher's (R–CA) extreme bill threatening access to emergency health care for undocumented immigrants and, we fear, for many U.S. citizens living in immigrant families and communities.

Among its provisions, H.R. 3722, the Undocumented Alien Emergency Medical Assistance Amendments of 2004, would deny hospitals and other health care providers reimbursement for uncompensated emergency care they provide to undocumented immigrants unless they report those immigrants to the Department of Homeland Security (DHS). As a practical matter, this would oblige providers to verify the immigration status of all uninsured patients presenting health care emergencies. The information health care providers would be required to transmit to DHS would include their patients' financial data, identity of employer, and biometric information.

H.R. 3722 would also narrow the scope of emergency health services available to undocumented persons and make inability to pay medical expenses a basis for removal from the U.S. Employers of undocumented workers whose medical expenses are reimbursed by the federal government would be required to repay the government for those costs.

This proposal would jeopardize the health of immigrants and the general public. The threat of separation from their communities and families would deter immigrants and their family members from seeking needed health services, including testing and treatment for communicable diseases. Overburdened emergency health care providers would be forced to verify the immigration status of emergency patients, and report those believed to be undocumented to immigration authorities, in conflict with patient privacy rights and the fundamental principle that they refrain from harming their patients. The bill would impose additional burdens on employers, including small businesses, who already are required to verify the citizenship and immigration status of workers. It also would increase the likelihood of discrimination against persons assumed to ''appear foreign'' because of their race, accent or other prohibited factors.

Though Rep. Rohrabacher's intentions may be to contain emergency health cost and the flow of undocumented immigrants via this proposal, this is certainly not the way to do it. In fact, we believe the only possible outcome of the proposal is the creation of a disastrous and costly public health scenario. We ask that you oppose attempts to move this proposal forward.

Most sincerely,

MELINDA K. LEWIS,
Director of Policy Advocacy and Research.

PAYING TRIBUTE TO FIRST NATIONAL BANK OF THE ROCKIES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, I am honored to stand before this body of Congress and this Nation today to pay tribute to First National Bank of the Rockies, a business that has given a century of service to the citizens of Colorado. Recently, the bank moved its headquarters from Meeker to Grand Junction where most of its corporate officials reside. As First National celebrates its 100th Anniversary, let it be known that I, along with the people of Colorado, are grateful for the valuable service it provides.

First National Bank of the Rockies first opened its doors in 1904. Originally chartered as The First National Bank of Meeker, the name was changed in 1989 when a group of investors bought the bank, as well as First Federal Savings & Loan in Craig, and renamed it. Since the new owners took over, the bank has rapidly expanded, increasing its total assets ten-fold, and buying Rocky Mountain State Bank and Rio Blanco State Bank in 1997. As First National continues its expansion, it sees a bright economic outlook for Grand Junction and the State of Colorado.

Mr. Speaker, it is a privilege to recognize the service and dedication of First National Bank of the Rockies to Grand Junction and the State of Colorado. It has maintained strong community involvement and excellent personal customer service while continuing to grow and expand throughout the state. I congratulate First National on its 100th Anniversary and wish it continuing success.

PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2004

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. BLUMENAUER. Mr. Chairman, I speak out in opposition to H.R. 2432, the ''Paperwork and Regulatory Improvements Act of 2003.'' This bill would weaken, rather than improve, the process of developing federal regulations by elevating the interests of regulated industries over all other considerations. The bill would needlessly divert resources from implementing important regulations and does nothing to protect current public health and environmental regulations, which are under fire from the Bush administration. These are regulations that even the Office of Management and Budget has indicated have immense benefits: in September of 2003 an OMB study concluded that environmental regulations are well worth the costs they impose on industry and consumers, resulting in significant public health improvements and other benefits to society. For example, the study found that the health and social benefits of enforcing clean-air regulations during the past decade were five to seven times greater in economic terms than were the costs of complying with the rules. Yet the Bush administration continues to issue rules and guidelines that weaken the Clean Air Act.

I strongly support the Waxman-Tierney amendment to establish an independent commission on the politicization of science in the regulatory process. The amendment responds to a growing concern among scientists and the environmental community that the Bush administration is placing politics above science. From refusing to release a report contradicting their views in the Klamath basin of Oregon to removing information on global warming in an Environmental Protection Agency report, this administration has shown little more than flat out contempt for science. Just last month we saw the Bush administration issue a new policy that would allow hatchery-raised salmon in the Pacific Northwest to be included in wild salmon population counts, which could have a significant impact on whether or not the species are listed under the Endangered Species Act. Press accounts show that this was done over the objection of an independent panel of scientists commissioned by National Marine Fisheries Service to advise them on the issue.

In February of this year, 60 leading scientists—including 20 Nobel laureates, leading medical experts, former federal agency directors, and university chairs and presidents—voiced their concern over the misuse of science by this administration. I am deeply disappointed that H.R. 2432 takes us in the wrong direction by advancing a misguided concept that elevates the interests of regulated industries over the health of our communities.

PAYING TRIBUTE TO TED HAYDEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity and pay tribute to Ted Hayden and thank him for his dedication to Colorado as a four-term Delta County Commissioner. His dedication and tireless efforts have done much to ensure a promising future for his constituents. As Ted celebrates his retirement, let it be known that he leaves behind a terrific legacy of commitment to the people of Delta County and the State of Colorado.

As a member of the Delta County Board of Commissioners for sixteen years, Ted has been instrumental in implementing a variety of projects. He represented Delta County on the Rail Transportation Research & Advisory Committee, helping to secure funding for a rail corridor safety improvement plan to upgrade public railroad crossings on the North Fork branch of the Union Pacific Railroad. Ted has also been very active in the North Fork River Improvement Association, the North Fork Coal Working Group, the Delta County Fairgrounds, and in developing a park and sports complex in Paonia. Ted served as Chairman of the Delta County Board in 1991, 1994, 1997, 2001, and 2003. Before serving as commissioner, Ted spent fourteen years in the service of the Colorado State Patrol.

Mr. Speaker, it is quite clear that Ted Hayden is a person that has displayed a terrific level of dedication and commitment to his pursuit of public service. Ted's selfless dedication to his Delta County community and the State of Colorado is truly outstanding, and it my privilege to recognize him today before this body of Congress and this nation. I wish him all the best in his future endeavors.

PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2004

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 2004

Mr. HOLT. Mr. Chairman, I rise in opposition to H.R. 2432. Like so many other bills that have come the House floor recently, this one has a good title that belies its real substance. The paperwork and regulatory burdens on businesses could certainly use improvement, but this bill is actually an underhanded way to weaken so many important regulations that protect American citizens by giving us clean air, clean water, protected public lands, and safe workplaces.

It is ironic that, even as we operate under one of the most industry-friendly administrations in recent history, the paperwork burden on the average American businessman has actually gone up. In fiscal year 2003, total government paperwork reached an estimated 8.1 billion hours. According to OMB's Office of Information and Regulatory Affairs, the paperwork burden rose a record 570 million hours in fiscal year 2002 and another 72 million hours in fiscal year 2003.

So even as the Bush administration and the House leadership dole out special interest goodies to oil and gas companies, HMOs, and many others, the paperwork burden for businesses is going up. The bill we have in front of us will not relieve that burden or do anything to undo the sharp increase in paperwork that we have seen from this White House. Instead, it weakens the process of developing federal regulations that protect the health and safety of Americans and our natural environment.

It is also ironic that the House leadership has chosen to attack environmental regulations as imposing undue burdens on businesses when our laws and regulations still do not fully account for externalities like pollution. Polluting industries may decry the costs of burdensome government regulations, but it is average citizens who pay the real price when they breathe dirty air and drink polluted water.

Some reports have concluded that my home state of New Jersey has the worst air quality in the nation. So it is hard for me, and for my constituents, to tolerate the cries of the power industries when their pollution leads to the premature deaths of so many New Jerseyans. I am outraged when the Bush administration insists on rewriting environmental regulations to pad the profits of polluters and ignores the human costs of pollution.

There is a real danger with the details in this legislation, especially concerning environmental and health regulations. The bill directs OMB to have every federal agency provide an annual report estimating the total costs and benefits of regulations and paperwork pertaining to that agency. So the agency measures the costs, say, of installing pollution controls on a power plant and filling out the relevant paperwork. When it comes to measuring the benefits of a given pollution control regulation, however, are we going to include the value of premature deaths avoided and reduced asthma rates? I sincerely doubt that most federal agencies are going to be inclined, or even be able, to estimate such external benefits.

As a research scientist. I am also concerned that the bill does not require the cost-benefit analyses to be done using rigorous scientific analysis. If we want to seriously look at the real costs and benefits of our regulations, we need to use scientific methods, or we risk using complete speculation. This Administration has already undermined and ignored science numerous times—let's not give them another opportunity.

I understand the burden that many businesses, especially small businesses, face in filling out government paperwork. This bill, however, is more about coming up with excuses to undermine vital health, safety, and environmental regulations than about relieving the evergrowing paperwork burden.

ARE WE BETTER OFF THAN WE WERE?

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. EDDIE BERNICE-JOHNSON of Texas. Mr. Speaker, I rise to speak on where we as a Nation have come over the last 3 years of the Bush Administration.

The question that deserves to be answered is, Are we better off than we were three years ago? Is our security better? Are we as safe as we should be? Do the Republicans have a plan to create jobs, or to reduce the deficit? Is our health care better? Have the costs for college tuition gone down? Have we ensured our children a better start in life?

Mr. Speaker, I can categorically and honestly answer each of these questions with a solid "no."

But what has happened in the last three years?

When President Bush took office, we had a $236 billion budget surplus; the Nation had created 22 million jobs in the previous eight years and gas prices averaged $1.47 a gallon.

Today, the government spends $900,000 more a minute than it takes in. We are borrowing $1.1 billion daily; 8.2 million are looking for work; gas prices are at a 23-year high with a national average of $2.01 a gallon; and wages have grown flat while college tuition and health care costs have skyrocketed.

As a result, most Americans are not better off today than they were three years ago.

Most Americans do not feel safer; they are living in fear and are losing hope. Forty-four million Americans do not have health insurance. Most Americans cannot afford to send their children to colleges and universities. This trend must stop.

America can do better for Americans than this. We can restore hope. We can restore peace. We can get back on the right track.

Democrats want to put America back on the right track. We just need the Republicans to get out of the way.

HONORING JOHN CONRAD KAPTUR

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2004

Ms. KAPTUR. Mr. Speaker, as we approach Father's Day, 2004, it is a great privilege today to offer respectful words of tribute on behalf of the entire Kaptur family—loving wife Rita, children and spouses Stephen, Christopher/Renee, James/Christine, Kenneth, Regina/Jeff. Sisters Virginia, Lillian, Christine, and the grandchildren, Nicole, Michael, Cassandra, Ashley, Brittany, Jacob, and Lucas—as we honor the beautiful life of John Conrad Kaptur. Surely, he is loved.

His children observe: "Dad has a smile that would immediately tell all that he was happy to be in company with you. He enjoyed a good joke and always enjoyed a brewed cup of tea. 'Refreshing', he would say. John was a gentleman, also a strongman, a man who exemplified the motto by which he lived 'always faithful'. Our beloved father, Steve, his uncle, said of John, 'He knew how to be a man'."

Born in 1925, John was a devoted son of Szepan and Mary, an American of Polish heritage. He was his parents first and only born son. His father was the eldest of 16 children. John grew up attending St. Stanislaus Church and Libbey High School during tough economic times. He knew struggle. He worked hard. He possessed the drive, inventiveness and skill for which Kaptur men are known. His kindness was rooted deeply in his early years when people survived by holding onto one another.

He valued family—to celebrate life and to weather the rough times. At 79, he was the patriarch of the Kaptur family.

John was a tot when Wall Street crashed in 1929 ushering in the Great Depression of the 1930's. No jobs were to be had. For people today, it is hard to describe how hard life was back then—before America had a minimum wage, before there was enough to eat for so many families, before there was Social Security and Medicare. That was the world into which John was born. He never forgot. But he always kept moving forward. He was so talented. He possessed the Kaptur man's physique—sturdy, square jawed, full of wanderlust, but steady, with a heart of gold so big his body could hardly contain it.

At 17, following in his father's footsteps, he enlisted in the U.S. Marine Corps—the elite, special branch of the US Armed Forces especially trained for amphibious assault. He served in the Pacific Theater during WWII—first training at Camp Le Jeune in New River, North Carolina. In September 1942, he departed on a troop ship out of San Diego as a member of the 3rd Marine Division for the Bouganville invasion of American Samoa. He contracted a mosquito borne illness in late 1943 after the Guadalcanal invasion. A natural leader, he rose in rank in the Corps and later in the Reserves from Private First Class, to Lance Corporal, to Corporal, to Sergeant, and Staff Sergeant. He served honorably 12 years in the Corps and Reserves. He was a Patriot.

When I look at his beautiful family, I repeat the Marine Corps saying: "The marines have landed, and the situation is well in hand." John maintained a keen interest in world events and helped shape them. In his mid 30s, John married Rita Mominee. What a match this has been! Smiles, a house full of activity-travel-joy. Together, they raised a magnificent family—4 boys—Stephen, Christopher, James, Kenneth and finally a girl! Regina. What a blessing he was able to watch them grow up and flower into adulthood. He enjoyed every minute.

During his long life, he also experienced the Great Depression, World War II, the Korean War, Sputnik and "the landing of the first man on the moon, the collapse of the Soviet Union, where his own father had served in Marine Corps in Vladivostok, and he ushered in the 21st century. All the while, John kept steady with his family and garden blooming, a man of quiet strength, a gentleman, good, and kind. To ease the sorrow, we should think about what each of us can do in his name, as a living prayer. For he will come to us now in a new way, not on our time but on his time. His children, through Regina, say about him:

"Dad was proud to be Catholic and to have served in the United States Marine Corps. His talents were many." After working nearly four decades in industrial production planning at Dura Corp and later, retiring from Chrysler-Jeep as a planner in the engineering division, he quickly went out to do plumbing. "The love of people and good conversation made me want to do it," he said. He always worked a hard day supporting his large family.

He most loved his family. He celebrated his 45th Wedding Anniversary not long ago with his wife, Rita, along with their family. What a strong and devoted spouse Rita has been. Jim and Christine shared their home to make that happen, just as they will for the wake today after the Christian burial. Dad was very proud of Jim's accomplishments as a Paramedic/Toledo Firefighter and the perseverance he has to move up. He found great comfort in his knowledge. He would always take a nap in the afternoon so he could stay up to welcome Ken home from a hard day's work, and talk about the Lottery. When the day came to around 3 o'clock he would look for Chris to come by and have some good conversation. For Steve, he was very thankful for the skills it took to fix his car or use his trailer. As he was fathering all these boys, he became so very proud of their hard work and perseverance on a job. Regina knows her dad is proud of her accomplishments and the love, care, and comfort she had for him in his time of need. "Dad taught me respect, compassion, diplomacy, perseverance, and the ability to know people and to have the psychology of life. Most of all, he taught me to love a human being, no matter if they were challenged or not."

Then there are the grandchildren: He loved each and every one of them—Nicole, Michael, Cassandra, Ashley, Brittany, Jacob, and Lucas. Whether John wanted to play hockey in the driveway, or bump the tree with the tire swing, or pick up sticks in the yard, or take a walk to the grapes, or even around the block. He may have just wanted a conversation with you, he loved you all. And I might add, our last conversation, just a few days ago, was about getting together with the grandchildren for dinner when he was feeling better.

And the grandchildren couldn't have come without the loving daughters-in-law and son-in-law he gained—Renee, Christine and Jeff.

Regina writes: "I was very glad to have spent the time with Dad these few months and through all his surgeries. I would not have wanted it any other way. So much value was built in the quality time we had. He recalled everyone in the present and in the past. Never was a cross word said. His words were always very kind.

Dad had the best doctors and they always took our phone calls without hesitation and went beyond to meet our needs. Dad was always open to their suggestions that would help him. He had told the doctors: "Let's do it"—"I am a patient man."

With tears in my eyes, I watched as God wrapped his arms around Dad and said to him, "My precious child, come with me. You surely were a treasure on this earth, but now I need you in Heaven." So God reached out and showed him the bright light, and said, "I will reunite you all again some day."

With tears in all of our eyes we will meet him again in heaven where he will greet each one of us with a smile and say, "It's great to see you." "Thank you for coming." "Can I get you a cup of tea, or perhaps a Coop e'Kava and cookie."

POEM

Because you went first and I remain,
To walk the road alone.
I live in memories garden, Dear,
With happy days we've known.
In Spring I wait for roses red,
When faded, the lilacs blue.
In early Fall when brown leaves fall
I'll catch a glimpse of you.
Because you went first and I remain,
For battles to be fought.
Each thing you touched along the way
Is now a hallowed spot.
I hear your voice, I see your smile,
Tho blindly I now grope.
The memory of your helping hand
Now buoys me on with hope.
Because you went first and I remain,
One thing I'll have to do:
Walk slowly down that long long path,
For soon I'll follow you,
I want to know each step you took,
So I may take the same,
For some day down that lonely road,
You'll hear me call your name.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 20, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 2

9:30 a.m.

Foreign Relations

To hold hearings to examine the greater Middle East initiative.

SD–419

JUNE 16

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine the grounding of multi-engine fire-retardant aircraft, steps the Forest Service and Department of the Interior have taken to provide alternative aerial support for initial attack and extended attack fire fighting operations in the short run, and the feasibility and desirability of designing and implementing an inspection process to allow the use of multi-engine fire-retardant aircraft in the future.

SD–366

SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

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Daily Digest

HIGHLIGHTS

Senate passed S. 15, Project Bioshield Act.

The House agreed to the conference report on S. Con. Res. 95, Concurrent Resolution on the Budget for FY05.

House Committees ordered reported 18 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S5729–5892

Measures Introduced: Thirteen bills and one resolution were introduced, as follows: S. 2438–2450, and S. Res. 365. **Page S5799**

Measures Passed:

Project Bioshield Act: By a unanimous vote of 99 yeas (Vote No. 99), S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures, after agreeing to the committee amendment in the nature of a substitute, and the following amendments proposed thereto: **Pages S5744–5767**

Gregg/Kennedy Amendment No. 3178, in the nature of a substitute. **Pages S5762–66**

Gregg/Kennedy Amendment No. 3180, to amend the title. **Page S5767**

Federal Highway Reauthorization:Senate passed H.R. 3550, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, after striking all after the enacting clause and inserting in lieu thereof the text of S. 1072, Senate companion measure, as passed the Senate on February 12, 2004, and after agreeing to the following amendment proposed thereto: **Page S5838**

Frist (for Inhofe) Amendment No. 3219, providing for the use of State funds for projects to protect existing roadways from anticipated flooding of a closed basin lake. **Page S5838**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair be authorized to appoint conferees on the part of the Senate. **Page S5838**

Albuquerque Biological Park Title Clarification Act:Senate passed S. 213, to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, after agreeing to the committee amendment. **Page S5839**

Fort Donelson National Battlefield Expansion Act: Senate passed S. 524, to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, after agreeing to the committee amendment in the nature of a substitute. **Pages S5839–40**

Kendrick Project Wyoming Act:Senate passed S. 943, to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming, after agreeing to the committee amendment in the nature of a substitute. **Pages S5840–41**

Hawaii Water Resources Act: Senate passed S. 960, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study, after agreeing to the committee amendments. **Page S5841**

Recreational Fee Authority Act:Senate passed S. 1107, to enhance the Recreational Fee Demonstration Program for the National Park Service, after agreeing to the committee amendments. **Pages S5841–42**

Barry and Stone Counties Missouri Act: Senate passed S. 1167, to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri, after agreeing to the committee amendment in the nature of a substitute. **Pages S5842–44**

Salt Cedar Control Demonstration Act:Senate passed S. 1516, to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the Commissioner of Reclamation, to carry out an assessment and demonstration program to control salt cedar and Russian olive, after agreeing to the committee amendment in the nature of a substitute. **Pages S5844–45**

Harpers Ferry National Historical Park Boundary Revision Act: Senate passed S. 1576, to revise the boundary of Harpers Ferry National Historical Park. **Page S5845**

Hydroelectric Project Deadline Extension:Senate passed S. 1577, to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming. **Pages S5845–46**

Oregon Land Conveyance: Senate passed S. 1848, to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Page S5846**

Frist (for Domenici) Amendment No. 3216, to make a technical correction. **Page S5846**

National Park System Laws Technical Amendments Act: Senate passed S. 2178, to make technical corrections to laws relating to certain units of the National Park System and to National Park programs. **Pages S5846–47**

Sleeping Bear Dunes National Lakeshore: Senate passed H.R. 408, to provide for expansion of Sleeping Bear Dunes National Lakeshore, clearing the measure for the President. **Page S5847**

Cibola National Wildlife Refuge: Senate passed H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California, after agreeing to the following amendment proposed thereto: **Page S5847**

Frist (for Leahy) Amendment No. 3217, to adjust the boundaries of Green Mountain National Forest. **Page S5847**

California National Forest Land Conveyance: Senate passed H.R. 708, to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, clearing the measure for the President. **Page S5847**

Texas Water Control Project:Senate passed H.R. 856, to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, clearing the measure for the President. **Page S5847**

Irvine Basin Surface and Groundwater Improvement Act: Senate passed H.R. 1598, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to reauthorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, clearing the measure for the President. **Pages S5847–48**

Bend Pine Nursery Land Conveyance:Senate passed H.R. 3505, to amend the Bend Pine Nursery Land Conveyance Act to specify the recipients and consideration for conveyance of the Bend Pine Nursery, clearing the measure for the President.

Brown v. Board of Education Anniversary:Committee on the Judiciary was discharged from further consideration of H. Con. Res. 414, expressing the sense of the Congress that, as Congress recognizes the 50th anniversary of the Brown v. Board of Education decision, all Americans are encouraged to observe this anniversary with a commitment to continuing and building on the legacy of Brown, and the resolution was then agreed to. **Page S5848**

Taxpayer Protection and I.R.S. Accountability Act: Committee on Finance was discharged from further consideration of H.R. 1528, to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service, and the bill was then passed, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 882, Senate companion measure, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S5848–91**

Frist (for Grassley/Baucus) Amendment No. 3218, to provide for a manager's amendment. **Page S5891**

Subsequently, S. 882 was returned to the Senate calendar. **Page S5891**

Department of Defense Authorization Act: Senate continued consideration of S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for

such fiscal year for the Armed Services, taking action on the following amendments proposed thereto: **Page S5767**

Adopted:

Domenici Amendment No. 3192, to accelerate the removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites worldwide. **Pages S5771–74**

Warner/Levin Amendment No. 3205, to correct the characterization of the funding authority for up-armored high mobility multi-purposed wheeled vehicles and wheeled vehicle ballistic add-on armor protection. **Pages S5785–86**

Warner Amendment No. 3206, to correct a funding discrepancy. **Page S5786**

Warner Amendment No. 3207, to make a technical correction relating to military construction. **Page S5786**

Warner Amendment No. 3208, to make a technical correction to a cross reference in title 10, United States Code. **Page S5786**

Warner/Levin Amendment No. 3209, to provide for continuation of part-time or intermittent home health care benefits during transition to the sub-acute care program. **Page S5786**

Warner/Levin Amendment No. 3210, to provide temporary authority for waiver of collection of payments due for CHAMPUS benefits received by disabled persons unaware of loss of CHAMPUS eligibility and continuation of such benefits. **Pages S5786–87**

Warner (for Allard) Amendment No. 3211, to improve section 3120, relating to local stakeholder organizations for Department of Energy Environmental Management 2006 closure sites. **Page S5787**

Levin (for Byrd) Amendment No. 3212, to require an increase in the size of the defense acquisition and support workforce during fiscal years 2005, 2006, and 2007. **Pages S5787–88**

Warner (for Domenici/Bingaman) Amendment No. 3169, to provide a substitute for section 3144, relating to support for public education in the vicinity of Los Alamos National Laboratory, New Mexico. **Pages S5788–89**

Levin (for Reed) Amendment No. 3213, to clarify the programs of the service academies that may be subject to uniform funding and management. **Page S5789**

Warner (for Sessions) Amendment No. 3214, to authorize the exchange of land at Maxwell Air Force Base, Alabama. **Page S5789**

Levin (for Sarbanes/Mikulski) Amendment No. 3215, to authorize a land conveyance, Naval Air Station, Patuxent River, Maryland. **Pages S5789–90**

Warner (for Coleman) Amendment No. 3165, to require a study of establishment of mobilization station at Camp Ripley National Guard Training Center, Little Falls, Minnesota. **Page S5790**

Rejected:

By 37 yeas to 62 nays (Vote No.100), Kyl/Cornyn Modified Amendment No. 3191, to express the sense of the Senate regarding legislation to impose an excise tax on tobacco lawyer's fees that exceed $20,000 per hour in order to increase funding for equipment for the United States Armed Forces. **Pages S5767–68, S5774–84**

By 49 yeas to 50 nays (Vote No. 101), Lautenberg Modified Amendment No. 3151, to clarify the application of Presidential action under the International Emergency Economic Powers Act. **Pages S5768–71, S5784–85**

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 11 a.m., on Thursday, May 20, 2004. **Page S5891**

Messages From the House: **Page S5797**

Measures Referred: **Page S5797**

Measures Read First Time: **Page S5797**

Executive Communications: **Pages S5797–99**

Additional Cosponsors: **Pages S5799–S5800**

Statements on Introduced Bills/Resolutions: **Pages S5800–09**

Additional Statements: **Pages S5795–97**

Amendments Submitted: **Pages S5809–37**

Authority for Committees to Meet: **Pages S5837–38**

Privilege of the Floor: **Page S5838**

Record Votes: Three record votes were taken today. (Total—101) **Pages S5767, S5784, S5785**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:21 p.m., until 10 a.m., on Thursday, May 20, 2004. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S5891.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Agriculture, Nutrition, and Forestry: Committee ordered favorably reported an original bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, and to reauthorize child nutrition programs.

APPROPRIATIONS—DISTRICT OF COLUMBIA

Committee on Appropriations: Subcommittee on the District of Columbia concluded a hearing to examine proposed budget estimates for fiscal year 2005 for the government of the District of Columbia, after receiving testimony from Mayor Anthony A. Williams, Linda W. Cropp, Chair, City Council, and Natwar M. Gandhi, Chief Financial Officer, all of Washington, D.C.

IRAQI PRISONER ABUSE

Committee on Armed Services: Committee resumed open and closed hearings to examine allegations of mistreatment of Iraqi prisoners, receiving testimony from General John P. Abizaid, USA, Commander, United States Central Command; and Lieutenant General Ricardo S. Sanchez, USA, Commander, and Major General Geoffrey D. Miller, USA, Deputy Commander for Detainee Operations, both of Multi-National Force-Iraq.

Hearings recessed subject to the Call.

IMF AND WORLD BANK

Committee on Banking, Housing, and Urban Affairs: Committee concluded an oversight hearing to examine proposals to reform the International Monetary Fund and World Bank, including the costs and budgetary treatment of multilateral financial institutions' activities, after receiving testimony from John B. Taylor, Under Secretary of the Treasury for International Affairs; Douglas Holtz-Eakin, Director, Congressional Budget Office; Allan H. Meltzer, Carnegie Mellon University, Pittsburgh, Pennsylvania, on behalf of American Enterprise Institute; and C. Fred Bergsten, Institute for International Economics, Washington, D.C.

WATER AND POWER PROJECTS

Committee on Energy and Natural Resources: Subcommittee on Water and Power concluded a hearing to examine S. 900, to convey the Lower Yellowstone Irrigation Project, the Savage Unit of the Pick-Sloan Missouri Basin Program, and the Intake Irrigation Project to the pertinent irrigation districts; S. 1876, to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; S. 1957, to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers; S. 2304 and H.R. 3209, bills to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project; S. 2243, to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska; H.R. 1648, to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District; and H.R. 1732, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, after receiving testimony from John W. Keys III, Commissioner, Bureau of Reclamation, and Charles G. Groat, Director, U.S. Geological Survey, both of the Department of the Interior; Jerry Nypen, Lower Yellowstone Irrigation Project, Sidney, Montana; Andrew B. Core, New Mexico Office of the State Engineer, Santa Fe; John Robert Carman, Metropolitan Water District of Salt Lake and Sandy, Sandy, Utah; Thomas P. Graves, Mid-West Electric Consumers Association, Wheat Ridge, Colorado; and C. Allan Jones, Texas Water Resources Institute, College Station.

TERRORISM FINANCING

Committee on Finance: Committee held a hearing to examine terrorism financing, focusing on efforts to build domestic and international policies and systems to combat money-laundering and terrorist financing, charities as a means of raising and moving funds and logistical support for terrorists, compliance from Saudi Arabia, and the designation of major foreign financial institutions and businesses as terrorist financiers, receiving testimony from Joseph M. Myers, Katten Muchin Zavis Rosenman, former Acting Deputy Assistant Secretary of the Treasury for Enforcement, and Jonathan M. Winer, Alston and Bird, former Deputy Assistant Secretary of State for International Law Enforcement, both of Washington, D.C.

NOMINATIONS

Committee on Finance: Committee concluded a hearing to examine the nominations of Juan Carlos Zarate, of California, to be Assistant Secretary for Terrorist Financing, and Stuart Levey, of Maryland, to be Under Secretary for Enforcement, both of the Department of the Treasury, and John O. Colvin, of Virginia, to be a Judge of the United States Tax Court, after each nominee testified and answered questions in their own behalf. Testimony was also received on the nominations of Mr. Zarate and Mr. Levey from Joseph M. Myers, Katten Muchin Zavis Rosenman, former Acting Deputy Assistant Secretary of the Treasury for Enforcement, and Jonathan M. Winer, Alston and Bird, former Deputy Assistant Secretary of State for International Law Enforcement, both of Washington, D.C.

IRAQ'S TRANSITION

Committee on Foreign Relations: Committee concluded hearings to examine the way ahead in Iraq, focusing on the Administration's plans for the transition to Iraqi sovereignty, after receiving testimony from Anthony H. Cordesman, Center for Strategic and International Studies, and Phebe Marr, National Defense University, both of Washington, D.C.; General Joseph P. Hoar, USMC (Ret.), former Commander in Chief, United States Central Command, Del Mar, California; and Larry Diamond, Stanford University Hoover Institution, Stanford, California.

TRIBAL SELF-GOVERNANCE AMENDMENTS

Committee on Indian Affairs: Committee concluded a hearing to examine S. 1696, to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes, after receiving testimony from Don Kashevaroff, Seldovia Village Tribe, Anchorage, Alaska, on behalf of the Alaska Native Tribal Health Consortium; Alvin Windy Boy, Sr., Chippewa Cree Tribe of Rocky Boy's Reservation, Box Elder, Montana, on behalf of the Indian Health Service's Tribal Self-Governance Advisory Committee; W. Ron Allen, Jamestown S'Klallam Tribe, Sequim, Washington, on behalf of the Title VI Study Team; and Mickey Peercy, Choctaw Nation of Oklahoma, Durant.

HEALTH SAVINGS ACCOUNT

Special Committee on Aging: Committee concluded a hearing to examine the benefits and risks of Health Savings Accounts as provided for in the Medicare Law, focusing on the future of health care, reducing insurance costs, and enabling more employers to begin or retain health insurance benefits for employees, after receiving testimony from John W. Snow, Secretary of the Treasury; John C. Goodman, National Center for Policy Analysis, Dallas, Texas; Ronald A. Williams, Aetna, Hartford, Connecticut; Kate Sullivan, U.S. Chamber of Commerce, and Robert Greenstein, Center on Budget and Policy Priorities, both of Washington, D.C.; and Edward L. Langston, Lafayette, Indiana, on behalf of the American Medical Association.

House of Representatives

Chamber Action

Measures Introduced: 19 public bills, H.R. 4389–4407; 1 private bill, H.R. 4408 and 2 resolutions, H. Con. Res. 431, and H. Res. 650 were introduced. **Pages H3390–91**

Additional Cosponsors: **Pages H3391–92**

Reports Filed: Reports were filed today as follows:

H.R. 4103, to extend and modify the trade benefits under the African Growth and Opportunity Act, amended (H. Rept. 108–501); and

H.R. 2912, to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government (H. Rept. 108–502).

H.J. Res. 83, proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives, adversely (H. Rept. 108–503). **Page H3390**

Speaker: Read a letter from the Speaker wherein he appointed Representative Latham to act as Speaker Pro Tempore for today. **Page H3231**

Chaplain: The prayer was offered today by Rev. Pete Wall, Pastor, Jackson Baptist Church in Sylvania, Georgia. **Page H3231**

Suspensions: The House agreed to suspend the rules and pass the following measure:

Honoring past and current members of the U.S. Armed Forces: H. Con. Res. 424, honoring past and current members of the Armed Forces of the United States and encouraging Americans to wear red poppies on Memorial Day, by a ⅔ yea-and-nay vote of 419 yeas with none voting "nay", Roll No. 195. **Pages H3251–56, H3259**

National Defense Authorization Act for Fiscal Year 2005: The House began consideration of H.R. 4200, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2005. Further consideration will continue on Thursday, May 20. **Pages H3241–45, H3257–H3358, H3369–77**

The amendment in the nature of a substitute recommended by the Committee on Armed Services printed in the bill was considered as an original bill for the purpose of amendment. **Pages H3281–H3346**

Pursuant to section 4 of H. Res. 648, it was agreed that the Slaughter amendment (no. 14 printed in H. Rept. 108–499) be considered out of the order printed in H. Rept. 108–499. **Page H3375**

Pursuant to H. Res. 648, it was agreed that certain amendments be placed in order as though printed in H. Rept. 108–499 and numbered 29, 30, 31, and 32; that amendment numbered 13 in H. Rept 108–499 be modified in the form that was placed at the desk; and that the amendments and the modification placed at the desk be considered as read.

Pages H3376–77

Agreed to:

Goode amendment (no. 1 printed in H. Rept. 108–499) that authorizes the Secretary of Defense to assign members of the Armed Forces, under certain circumstances and subject to certain conditions, to assist the Department of Homeland Security in the performance of border protection functions (by a recorded vote of 231 ayes to 191 noes, Roll No. 196); **Pages H3346–50, H3357**

Hunter amendment (no. 3 printed in H. Rept. 108–499) that expresses the sense of Congress concerning the abuse of persons in custody in Iraq (by a recorded vote of 416 ayes to 4 noes, Roll No. 199); **Pages H3354–57, H3370**

Meek amendment (no. 5 printed in H. Rept. 108–499) that moves mission-critical information from the commissioning authority up to the highest levels in short order when that information portends events or situations detrimental to our strategic plan; and **Pages H3372–73**

Hastings of Florida amendment (no. 6 printed in H. Rept. 108–499) that expresses the sense of Congress that no funds available to any department or agency of the United States Government may be used to provide assistance for the reconstruction of Iraq unless the President certifies to Congress that the United States has entered into an agreement with the Iraqi Governing Council or a transitional government in Iraq under which Iraq agrees that it will expend a significant portion of its revenues generated from oil production for reconstruction activities in Iraq. **Pages H3373–74**

Rejected:

Davis of California amendment (no. 2 printed in H. Rept. 108–499) that sought to repeal the prohibition on servicewomen and female military dependents from using their own funds for abortions at overseas military hospitals (by a recorded vote of 202 ayes to 221 noes, Roll No. 197).

Pages H3350–54, H3357

Proceedings Postponed:

Weldon of Pennsylvania (no. 4 printed in H. Rept. 108–499) amendment that seeks to express the sense of Congress that the Secretary of Defense should assist the Iraqi Government in destroying the Abu Gharib prison and replacing it with a modern detention facility; and **Pages H3370–72**

Skelton amendment (no. 14 printed in H. Rept. 108–499) that seeks to require the Secretary of Defense to develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces and requires the DoD to take related measures to address sexual assaults involving members of the Armed Forces. **Pages H3374–76**

H. Res. 648, the rule providing for consideration of the bill was agreed to by a recorded vote of 220 ayes to 205 noes, Roll No. 194, after agreeing to order the previous question by a yea-and-nay vote of 220 yeas to 204 nays, Roll No. 193. **Pages H3257–59**

Concurrent Resolution on the Budget for FY 2005—Conference Report: The House agreed to the conference report on S. Con. Res. 95, original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009, by a yea-and-nay vote of 216 yeas to 213 nays, Roll No. 198. **Pages H3358–69**

H. Res. 649, the rule providing for consideration of the conference report was agreed to by a recorded vote of 220 ayes to 204 noes, Roll No. 192, after agreeing to order the previous question by a yea-and-nay vote of 220 yeas to 204 nays, Roll No. 191. **Pages H3256–57**

Budget Resolution for FY 2005—Motion to Instruct Conferees: Subsequent to the filing of the conference report on S. Con. Res. 95, the chair announced the motion to instruct conferees offered by Representative Stenholm, which was debated on Tuesday, May 18 and the notice of intent to offer a motion to instruct conferees by Representative Price of North Carolina had been vitiated.

Page H3259

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004—Order of Business: Pursuant to section 3 of H. Res. 649, H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, was laid on the table.

Pages H3236–41, H3377

Policy Committee of the White House Conference on Aging—Appointment: Read a letter from the Minority Leader wherein she appointed Barbara Kennelly of Connecticut and Robert B. Blancato of Virginia to the Policy Committee of the White House Conference on Aging. **Page H3259**

Senate Message: Message received from the Senate today appears on page H3231.

Quorum Calls—Votes: Four yea-and-nay votes and five recorded votes developed during the proceedings of today and appear on pages H3256–57, H3257, H3257–58, H3258–59, H3259, H3357, H3357–58, H3358–69, and H3369–70 There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 11:20 p.m.

Committee Meetings

AGRICULTURAL TRADE NEGOTIATIONS

Committee on Agriculture: Held a hearing to review Agricultural Trade Negotiations. Testimony was heard from public witnesses.

IMPROVING ACCESS TO ASSISTIVE FOR INDIVIDUALS WITH DISABILITIES ACT

Committee on Education and the Workforce: Ordered reported, as amended, H.R. 4278, Improving Access to Assistive Technology for Individuals with Disabilities Act of 2004.

REGIONAL ENERGY RELIABILITY AND SECURITY

Committee on Energy and Commerce: Subcommittee on Energy and Air Quality held a hearing entitled ''Regional Energy Reliability and Security: DOE Authority to Energize the Cross Sound Cable.'' Testimony was heard from Senator Schumer; Representatives DeLauro, King of New York and Shays; the following officials of the Department of Energy: Patrick Wood, III, Chairman, Federal Energy Regulatory Commission; and Lee Otis, General Counsel; Richard Blumenthal, Attorney General, State of Connecticut; and public witnesses.

COMMUNICATIONS MARKETPLACE COMPETITION

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing entitled ''Competition in the Communications Marketplace: How Convergence Is Blurring the Lines Between Voice, Video, and Data Services.'' Testimony was heard from public witnesses.

PROGRAM ASSESSMENT AND RESULTS ACT; OVERSIGHT—NASA'S FINANCIAL MANAGEMENT

Committee on Government Reform: Subcommittee on Government Efficiency and Financial Management approved for full Committee action, as amended, H.R. 3826, Program Assessment and Results Act.

The Subcommittee also held an oversight hearing entitled ''Mission Impossible? Fixing NASA's Financial Management.'' Testimony was heard from the following officials of NASA: Gwendolyn Brown, Chief Financial Officer; Robert Cobb, Inspector General; and Greg Kutz, Director, Financial Management and Assurance, GAO.

FEDERAL ENTERPRISE ARCHITECTURE

Committee on Government Reform: Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census held an oversight hearing entitled ''Federal Enterprise Architecture: A Blueprint for Improved Federal IT Investment and Cross-Agency Collaboration and Information Sharing.'' Testimony was heard from Karen S. Evans, Administrator of E-Government and Information Technology, OMB; Randolph C. Hite, Director, Information Technology Architecture and Systems, GAO; Daniel Matthews, Chief Information Office, Department of Transportation; Kim Nelson, Chief Information Officer, EPA, and public witnesses.

MILLENNIUM CHALLENGE ACT

Committee on International Relations: Held a hearing on Implementation of the Millennium Challenge Act. Testimony was heard from Paul Applegarth, Chief Executive Officer, Millennium Challenge Corporation.

ESTABLISH A COMMISSION IN THE HOUSE OF REPRESENTATIVES TO ASSIST PARLIAMENTS IN EMERGING DEMOCRACIES

Committee on International Relations: Subcommittee on Europe approved for full Committee action H. Res. 642, Providing for the establishment of a commission in the House of Representatives to assist parliaments in emerging democracies.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: H.R. 646, amended, To Expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862; H.R. 1156, To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project; H.R. 2619, amended, Kilauea Point National Wildlife Point National Wildlife Refuge Expansion Act of 2003; H.R. 2831, amended, Newlands Project Headquarters and Maintenance Yard Facility Transfer Act; H.R. 2909, amended, Utah Test and Training Range Protection Act; H.R. 3785, amended, To authorize the exchange of certain land in Everglades Park; H.R. 4115, To amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; H.R. 4158, To provide for the conveyance to the Government of Mexico of a decommissioned National Oceanic and Atmosphere Administration ship; H.R. 4362, To authorize the Secretary of the Interior to accept a parcel of Federal land in the State of Washington in trust for the Nisqually Tribe, to ensure that the acceptance of such land

does not adversely affect the Bonneville Power Administration; S. 144, amended, Noxious Weed Control Act of 2003; and S. 1146, Three Affiliated Tribes Health Facility Compensation Act.

FEDERAL ENERGY EFFICIENCY AND RENEWABLE ENERGY R&D PROGRAMS IMPACT

Committee on Science: Subcommittee on Energy held a hearing entitled ''The Impact of Federal Energy Efficiency and Renewable Energy R&D Programs.'' Testimony was heard from Peter Smith, Energy Research and Development Authority, State of New York; and public witnesses.

EPA—HOMELAND SECURITY RESEARCH AND DEVELOPMENT

Committee on Science: Subcommittee on Environment, Technology, and Standards held a hearing entitled ''Homeland Security Research and Development at the EPA: Taking Stock and Looking Ahead.'' Testimony was heard from Paul Gilman, Assistant Administrator, Office of Research and Development, EPA; Penrose C. Albright, Assistant Secretary, Science and Technology Directorate, Department of Homeland Security; and public witnesses.

RED TAPE REDUCTION

Committee on Small Business: Held a hearing entitled ''Red Tape Reduction: Improving the Competitiveness of America's Small Manufacturers,'' Testimony was heard from John Graham, Administrator, Office of Information and Regulatory Affairs, OMB; and public witnesses.

OVERSIGHT—BIOMETRICS USE TO IMPROVE AVIATION SECURITY

Committee on Transportation and Infrastructure: Subcommittee on Aviation held an oversight hearing on The Use of Biometrics to Improve Aviation Security. Testimony was heard from Stewart Verdery, Assistant Secretary for Policy, Border and Transportation Security, Department of Homeland Security; Keith A. Rhodes, Chief Technologist, Applied Research and Methods, GAO; and public witnesses.

VETERANS LEGISLATION

Committee on Veterans' Affairs: Ordered reported the following bills: H.R. 4231, amended, Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004; H.R. 4248, amended, Homeless Veterans Assistance Reauthorization Act of 2004; H.R. 3936, To amend title 38, United States Code, to authorize the principal office of the United States Court of Appeals for Veterans Claims to be at any location in the Washington, D.C., metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation; H.R. 4345, To amend title 38, United States Code, to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs; H.R. 1716, amended, Veterans Earn and Learn Act of 2004; and H.R. 4175, amended, Veterans' Compensation Cost-of-Living Adjustment Act of 2004, 2 p.m., 334 Cannon.

VA'S ROLE—IN ELECTRONIC-MEDICAL RECORDS SYSTEMS

Committee on Veterans' Affairs: Subcommittee on Oversight and Investigations held a hearing on the Department of Veterans Affairs' role in the development of interoperable Electronic-medical records systems in the Federal Government. Testimony was heard from Linda Koontz, Director, Information Management Issues, GAO; Jonathan B. Perlin, M.D., Acting Under Secretary, Health, Veterans Health Administration, Department of Veterans Affairs; James C. Reardon, Chief Information Officer, Military Health System, Department of Defense; and public witnesses.

COMMITTEE BUSINESS—BRIEFING—DOD'S INTELLIGENCE REFORM INITIATIVE

Permanent Select Committee on Intelligence: Met in executive session to consider pending business.

The Committee also met in executive session to receive a briefing on Department of Defense Intelligence Reform Initiative (DoD HUMINT Reform). The Committee was briefed by departmental witnesses.

Joint Meetings

2005 BUDGET

Conferees: On Tuesday, May 18, 2004, agreed to file a conference report on S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D 468)*

S. 2315, to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering. Signed on May 18, 2004. (Public Law 108–228)

COMMITTEE MEETINGS FOR THURSDAY, MAY 20, 2004

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Commerce, Justice, State, and the Judiciary, to hold hearings to examine intellectual property, 10 a.m., SD–138.

Committee on Banking, Housing, and Urban Affairs: to hold an oversight hearing to examine the Extended Custodial Inventory Program, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: to hold hearings to examine the implementation of the Controlling the Assault of Non-Solicited Pornography and

Marketing Act (CAN–SPAM Act) (P.L. 108–187), 10:15 a.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on National Parks, to hold hearings to examine S. 1672, to expand the Timucuan Ecological and Historic Preserve, Florida, S. 1789 and H.R. 1616, bills to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia, S. 1808, to provide for the preservation and restoration of historic buildings at historically women's public colleges or universities, S. 2167, to establish the Lewis and Clark National Historical Park in the States of Washington and Oregon, and S. 2173, to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000, 2:30 p.m., SD–366.

Committee on Environment and Public Works: Subcommittee on Clean Air, Climate Change, and Nuclear Safety, to hold an oversight hearing to examine the Nuclear Regulatory Commission, 10:30 a.m., SD–406.

Committee on Health, Education, Labor, and Pensions: to hold hearings to examine prescription drug reimportation, 10 a.m., SD–106.

Committee on Indian Affairs: to hold hearings to examine S. 2382, to establish grant programs for the development of telecommunications capacities in Indian country, 10 a.m., SR–485.

Committee on the Judiciary: business meeting to consider pending calendar business; to be followed by oversight hearings to examine the FBI, terrorism, and other related topics, 10:30 a.m., SD–226.

Committee on Veterans' Affairs: business meeting to consider the nomination of Pamela M. Iovino, of the District of Columbia, to be an Assistant Secretary of Veterans Affairs for Congressional Affairs, Time to be announced, S–216, Capitol.

Select Committee on Intelligence: closed business meeting to consider certain intelligence matters, 10 a.m., SH–219.

House

Committee on Agriculture, Subcommittee on General Farm Commodities and Risk Management, hearing to review the Farm Security and Rural Investment Act of 2002, 9:30 a.m., 1300 Longworth.

Committee on Appropriations, Subcommittee on Foreign Operations, Export Financing and Related Programs, on Department of the Treasury (International Affairs), 10 a.m., 2359 Rayburn.

Subcommittee on Transportation, Treasury, and Independent Agencies, on Secretary of the Treasury, 10 a.m., 2358 Rayburn.

Committee on Energy and Commerce, Subcommittee on Environment and Hazardous Materials, hearing entitled "EPA's Resource Conservation Challenge," 1:30 p.m., 2322 Rayburn.

Subcommittee on Health, hearing entitled "Medicare Prescription Drug Discount Cards: Immediate Savings for Seniors," 10 a.m., 2123 Rayburn.

Committee on Financial Services, oversight hearing of the Department of Housing and Urban Development, including the Department's budget request for fiscal yuear 2005, 10 a.m., 2128 Rayburn.

Committee on Government Reform, hearing entitled "Redundancy and Duplication in Federal Child Welfare Programs: A Case Study on the Need for Executive Reorganization Authority," 10 a.m., 2154 Rayburn.

Subcommittee on Criminal Justice, Drug Policy and Human Resources, hearing entitled "Historic Preservation of the Peopling of America," 2 p.m., 2154 Rayburn.

Committee on House Administration, oversight hearing on the Federal Election Commission and the 527 Rulemaking Process, 4 p.m., 1310 Longworth.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, oversight hearing entitled "Reauthorization of the Administrative Conference of the United States," 2 p.m., 2141 Rayburn.

Subcommittee on Courts, Internet, and Intellectual Property, oversight hearing entitled "Derivative Rights, Moral Rights, and Movie Filtering Technology," 10 a.m., 2141 Rayburn.

Committee on Resources, oversight hearing on the "Draft Report of the U.S. Commission on Ocean Policy," 2 p.m., 1324 Longworth.

Committee on Science, Subcommittee on Energy, hearing on An Examination of H.R. 3890, to reauthorize the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988, 10 a.m., 2318 Rayburn.

Committee on Small Business, Subcommittee on Regulatory Reform and Oversight, hearing on Reforming Regulation to Keep America's Small Businesses Competitive, 10:30 a.m., 311 Cannon.

Subcommittee on Workforce, Empowerment, and Government Programs, hearing on the Department of Labor's Overtime Regulations' Effect on Small Business, 2 p.m., 311 Cannon.

Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, oversight hearing on Great Lakes Water Quality and Restoration Efforts, 10 a.m., 2167 Rayburn.

Committee on Ways and Means, Subcommittee on Human Resources, hearing on the SSI program, 10 a.m., B–318 Rayburn.

Next Meeting of the SENATE

10 a.m., Thursday, May 20

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond a period of 60 minutes), Senate will continue consideration of S. 2400, Department of Defense Reauthorization Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, May 20

House Chamber

Program for Thursday: Continue consideration of H.R. 4200, National Defense Authorization Act for Fiscal Year 2005 (subject to a rule).

Extensions of Remarks, as inserted in this issue

HOUSE

Baldwin, Tammy, Wisc., E913
Barton, Joe, Tex., E906
Becerra, Xavier, Calif., E911, E913
Blumenauer, Earl, Ore., E920
Brady, Robert A., Pa., E905, E907
Case, Ed, Hawaii, E916
Clyburn, James E., S.C., E915, E916
Coble, Howard, N.C., E918
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